



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JAN 24 2013

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**Article Number: 7005 3110 0000 5951 8731**

Mr. Patrick R. Vecchio, Town Supervisor  
99 West Main Street  
P.O. Box 9090  
Smithtown, New York 11787

Re: **Administrative Order CWA-02-2013-3012**  
**Town of Smithtown Municipal Separate Storm Sewer System**  
**SPDES Permit No. NYR20A277**

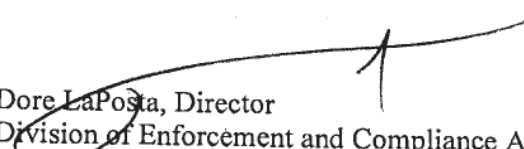
Dear Supervisor Vecchio:

The United States Environmental Protection Agency ("EPA"), Region 2, has made a finding that the above-named facility, Town of Smithtown ("Smithtown" or "Town"), is in violation of the Clean Water Act (33 U.S.C. §1251 *et seq*) ("CWA" or "Act") for State Pollutant Discharge Elimination System ("SPDES") violations as described in the findings of this ORDER. Enclosed are two (2) originals of this ORDER, issued pursuant to Section 309 of the Act, which detail the findings.

Please acknowledge receipt of this ORDER on one of the originals and return it to EPA by mail in the enclosed envelope. Failure to comply with the enclosed ORDER may subject the facility to civil/criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding this ORDER, please contact Ms. Kimberly McEathron, Water Compliance Branch, at (212) 637-4228.

Sincerely,

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosures

cc: Joe DiMura, P.E., Director, Bureau of Water Compliance Programs, NYSDEC  
Bill Spitz, NYSDEC, Region 1  
Sara Dorman, Region 1 (electronic)

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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Town of Smithtown  
99 West Main Street  
Smithtown, New York 11787

**SPDES Permit No. NYR20A277**

Proceeding pursuant to Section 309(a) of the  
Clean Water Act, 33 U.S.C. §1319(a)

**ADMINISTRATIVE  
COMPLIANCE ORDER**

CWA-02-2013-3012

The following Findings of Violation are made, and Order for Compliance ("Order") issued, pursuant to Section 309(a) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §1319(a). This authority has been delegated by the Administrator of the United States Environmental Protection Agency ("EPA") to the Regional Administrator, EPA Region 2, and since further redelegated to the Director, Division of Enforcement and Compliance Assistance, Region 2, EPA.

**A. Legal Authority**

1. Section 301(a) of the CWA, 33 U.S.C. §1311(a), prohibits the discharge of pollutants from a point source into waters of the United States, except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. §1342.
2. Section 402 of the CWA, 33 U.S.C. §1342, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to that Section.
3. Section 402 of the CWA, 33 U.S.C. §1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New York State Department of Environmental Conservation ("NYSDEC") is the agency with the authority to administer the federal NPDES program in New York pursuant to Section 402 of the CWA, 33 U.S.C. §1342. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA. Additionally, under the authority granted to the NYSDEC by the EPA under Section 402(b) of the CWA, 33 U.S.C. §1342(b), a State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from said facilities from a point source to a navigable water of the United States.

4. "Person" is defined by Section 502(5) of the CWA, 33 U.S.C. §1362(5), to include an individual, corporation, partnership, association or municipality.
5. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. §1362(6), to include among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water.
6. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. §1362(14), to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
7. "Navigable waters" is defined by Section 502(7) of the CWA, 33 U.S.C. §1362(7), to include the waters of the United States.
8. "Discharge of a pollutant" is defined by Section 502(12) of the CWA, 33 U.S.C. §1362(12), to include any addition of any pollutant to navigable waters from any point source.
9. "GIS" or "Geographic Information System" is defined as a computer system capable of capturing, storing and analyzing, and displaying geographically referenced information, that is, data identified according to location.
10. Section 402(p) of the CWA, 33 U.S.C. §1342(p), sets forth the requirements for the discharge of stormwater, including discharges of stormwater from Municipal Separate Storm Sewer Systems ("MS4s").
11. 40 C.F.R. §122.26(b)(8), defines an MS4 as a "conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by State law).....that discharges into waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works..."
12. 40 C.F.R. §122.26(b)(3) defines "incorporated place," in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located.
13. 40 C.F.R. §122.26(b)(16)(ii) defines "small municipal separate storm sewer system," in part, as not defined as "large" or "medium" MS4s.
14. Pursuant to 40 C.F.R. §122.32(a)(1), all small MS4s located in an "urbanized area" (as determined by the latest Decennial Census by the Bureau of Census) are regulated small MS4s.
15. 40 C.F.R. §§122.33(a) and (b) require operators of regulated small MS4s to seek authorization to discharge under the applicable NPDES general permit issued by the



permitting authority, by submitting a Notice of Intent ("NOI") for coverage under such permit.

16. NYSDEC issued SPDES General Permit for Storm Water Discharges from MS4s (GP-0-10-002) ("Permit") on May 1, 2010 and expires on April 30, 2015. The Permit supersedes the previous SPDES permit (GP-0-08-002), which became effective on May 1, 2008 and expired on April 30, 2010, and SPDES permit (GP-02-02), which became effective on January 8, 2003 and expired on January 8, 2008. SPDES permit (GP-02-02) was administratively extended until May 1, 2008, when SPDES permit (GP-0-08-002) became effective.

### **B. Factual Background**

1. The Town of Smithtown ("Smithtown" or "Town") is a municipal corporation chartered under the laws of the State of New York, and as such, Smithtown is a person, as defined in Section 502(5) of the CWA, 33 U.S.C. §1362(5), and 40 C.F.R. §122.2, and is an "incorporated place" as defined in 40 C.F.R. §122.26(b)(3).
2. The Town of Smithtown owns and operates the MS4, located in the Town of Smithtown, Suffolk County, New York and is an "owner or operator" within the meaning of 40 C.F.R. §122.2.
3. The MS4 in the Town of Smithtown is a small MS4 located in a urbanized area within the meaning of 40 C.F.R. §122.26(b)(16)(ii) and 40 C.F.R. §122.32(a)(1).
4. An MS4 is a point source within the meaning of Section 502(14) of the CWA, 33 U.S.C. §1362(14).
5. The Town of Smithtown's MS4 discharges stormwater, a pollutant within the meaning of Section 502(6) of the CWA, 33 U.S.C. §1362(6), to Long Island Sound, Fresh Pond, Sunken Meadow Creek, Nissequogue River, Phillips Mill Pond, Webster Pond, New Mill Pond, Northeast Branch, Millers Pond, Hunts Pond and Lake Ronkonkoma, waters of the United States within the meaning of 502 of the CWA, 33 U.S.C. §1362, and 40 C.F.R. §122.2, and as such, discharges pollutants within the meaning of Section 502(12) of the CWA, 33 U.S.C. §1362(12).
6. The Town of Smithtown submitted a Notice of Intent ("NOI") and a Storm Water Management Program ("SWMP") to NYSDEC on February 25, 2003, seeking coverage under the SPDES permit (GP-02-02). The Town subsequently received permit coverage under the SPDES General Permit (GP-02-02) on April 2, 2003 and permit coverage was maintained under subsequent SPDES permits (GP-0-08-002) and (GP-0-10-002).
7. EPA, accompanied by NYSDEC, conducted a compliance Audit of Smithtown's MS4 on May 22, 2012 through May 24, 2012.
8. SPDES General Permit (GP-0-10-002), effective on May 1, 2010, was the effective permit at the time of the Audit.

9. EPA issued a Request for Information ("RFI"), pursuant to Section 308 of the CWA, 33 U.S.C. §§1318(a), to the Town of Smithtown on June 15, 2012 (Docket No. CWA-IR-12-015) requesting the Town to submit to EPA a storm sewer system evaluation of the Smithtown Highway Yard within thirty (30) calendar days of receipt of the RFI.
10. The Town requested an extension to respond to the RFI in a letter to EPA dated June 26, 2012 and on July 4, 2012, EPA granted a thirty day extension. On September 18, 2012, EPA received a complete response to the RFI from the Town of Smithtown.

### **C. Findings of Violation**

As described in greater detail in the enclosed Audit Report, during the Audit on May 22, 2012 through May 24, 2012, EPA inspectors observed the following violations of the Smithtown's SPDES MS4 Permit (NYR20A277):

1. Part IV.A of the Permit requires the permittee to develop, implement and enforce a Storm Water Management Program ("SWMP") designed to reduce the discharge of pollutants to the maximum extent practicable ("MEP"). Part V.B of the Permit requires permittees to keep records required by this SPDES general permit for at least five (5) years after they are generated. Part VII.A of the Permit states that for each of the elements of the SWMP Plan, the permittees must identify (i) the agencies and/or offices that would be responsible for implementing the SWMP Plan element and (ii) any protocols for coordination among such agencies and/or offices necessary for the implementation of the plan element. Part X.B of the Permit defines SWMP as being used by the permittee to document developed, planned and implemented SWMP elements. The SWMP Plan should include a detailed written explanation of all management practices, activities and other techniques the permittee has developed, planned and implemented for their SWMP to address POCs and reduce pollutant discharges from their small MS4 to the Maximum Extent Practical ("MEP"). The SWMP Plan shall be revised to incorporate any new or modified Best Management Practices ("BMPs") or measurable goals. At the time of the Audit, the Town's March 2003 SWMP Plan did not include the following required SWMP Plan elements, in violation of Part IV.A of the Permit:

- i. Updates to incorporate 2008 and 2010 additional permit requirements;
- ii. Identified Pollutants of Concern ("POCs");
- iii. Developed measurable goals;
- iv. SWMP Plan review and update procedure;
- v. Applicable local laws including but not limited to Chapter 315, Water Pollution;
- vi. Enforcement escalation procedures necessary to implement SWMP;
- vii. Program budget;
- viii. Written procedures for responding to public complaints;
- ix. Available Illicit Discharge Detection Elimination ("IDDE") equipment, written procedures for identifying and locating illicit discharges (trackdown), procedures for eliminating illicit discharges, procedures for conducting dry weather monitoring of outfalls, and procedures for documenting actions;
- x. Outfall and MS4 system maps;
- xi. Construction site SWPPP review procedures, SWPPP review letters, SWPPP acceptance procedures; submitted SWPPPs; SWPPP conditional release procedures

- and approvals; construction site inspection procedures, construction site inspection reports; construction site Notice of Termination ("NOT") procedures, construction site operator training documentation and procedures for documenting actions;
  - xii. Written procedures for routine inspections of post-construction stormwater management practices and written plans for adequate operation and maintenance;
  - xiii. Municipal facilities and operations self-assessment procedure, documentation and results;
  - xiv. Vehicle inventory and maintenance BMPs, road maintenance and deicing activities BMPs, catch basin cleaning and street sweeping procedures; Town facility BMPs, spill response procedure and procedures for documenting actions;
  - xv. Town owned or operated facility inventory;
  - xvi. Spill response procedures; and
  - xvii. Employee pollution prevention and good housekeeping training program.
2. Part IV.D of the Permit requires all permittees to fully implement their SWMP. Part X defines SWMP as needing to include measurable goals for each of the BMPs and Part X includes measurable goals as documentation required to be included in the definition of the SWMP Plan. At the time of the Audit, Smithtown failed to develop and include in the March 2003 SWMP Plan measurable goals for each of the MCMs, in violation of Part IV.D of the Permit.
  3. Part IV.G of the Permit requires that all permittees must, through a signed certification statement, contract or agreement, provide adequate assurance that the third parties will comply with permit requirements applicable to the work performed by the third party. Town-hired contractors (garbage haulers) have not signed the certification statement listed in the Permit, and the statement is not included in contracts with the Town. Therefore, Smithtown failed to provide adequate assurance that third parties will comply with permit requirements applicable to the work performed by the third party, in violation of Part IV.G of the Permit.
  4. Part V.C.1 of the Permit requires that the Annual Report be received by NYSDEC no later than June 1 of each reporting year. Four of the past five Annual Reports submitted by the Town of Smithtown were not received by NYSDEC by June 1 of the reporting year (2008, 2010, 2011 and 2012 Annual Reports), in violation of Part V.C.1 of the Permit.
  5. Part V.C.3 of the Permit requires all permittees to include any change in identified BMPs or measurable goals and justification for those changes in the Annual Report. The construction site stormwater runoff control program measurable goal listed in the 2009 and 2010 Annual Reports included "number of SWPPPs reviewed" while the space was left blank on the 2011 Annual Report with no justification. Therefore, Smithtown failed to include justification in the 2011 Annual Report for omitting the construction site stormwater runoff control program measurable goal in the 2011 Annual Report, in violation of Part V.C.3 of the Permit.
  6. Part VII.A.1.a of the Permit requires permittees to identify Pollutants of Concern ("POCs") and Part X of the Permit defines POCs as nitrogen, phosphorus, silt and sediment, pathogens, flow, and floatables impacting impaired waterbodies listed on the Priority Waterbody List known to come in contact with stormwater that could be discharged to that



water body. Additional POC requirements in the Permit include Parts III.B.1, VII.A.1.b.ii, VII.A.1.d, VII.A.3.f, VII.A.3.k, VII.A.4.a.xiv, VII.A.5.d and VII.A.6.d of the Permit. The Town discharges stormwater to Millers Pond (specifically, Outfall F8.1) which is listed in Appendix 2 of the Permit for phosphorus and to Lake Ronkonkoma (specifically, Outfalls J9.1 and J9.2) which is listed in Appendix 2 of the Permit for pathogens. At the time of the Audit, Smithtown failed to identify POCs including phosphorus and pathogens, in violation of Part VII.A.1.a of the Permit and Part X of the Permit. Additional Permit requirements not met by the Town of Smithtown due to the lack of identified POCs include Parts III.B.1, VII.A.1.b.ii, VII.A.1.d, VII.A.3.f, VII.A.3.k, VII.A.4.a.xiv, VII.A.5.d and VII.A.6.d of the Permit.

7. Part VII.A.3.b.i of the Permit states that all permittees must develop and maintain a map, at a minimum within the permittee's jurisdiction in the urbanized area and additionally designated area showing the location of all outfalls. EPA identified at least seven (7) unmapped outfalls at the time of the Audit, as documented in Attachment F of the Audit Report. Therefore, Smithtown failed to develop and maintain a map showing the location of all outfalls within the Town's jurisdiction in the urbanized area, in violation of Part VII.A.3.b.i of the Permit.
8. Part VII.A.3.b.ii of the Permit states that at a minimum all permittees must by March 9, 2010, develop and maintain a map showing the preliminary boundaries of the permittees storm sewersheds have been determined using GIS or other tools, even if they extend outside of the urbanized area (to facilitate track down), and additionally designated area within the permittee's jurisdiction. According to Town representatives and the 2009 through 2011 submitted Annual Reports, the Town has not developed a map showing the preliminary boundaries of the storm sewershed. Therefore, Smithtown failed to develop and maintain a map showing the preliminary boundaries of the storm sewershed by the March 9, 2010 deadline, in violation of Part VII.A.3.b.ii of the Permit.
9. Part VII.A.3.d of the Permit requires all permittees to conduct an outfall reconnaissance inventory, as described in the EPA publication entitled Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment, addressing every outfall within the urbanized area and additionally designated area within the permittee's jurisdiction at least once every five years, with reasonable progress each year. Annual Reports submitted by the Town for 2009, 2010 and 2011 lists zero outfalls having been screened for dry weather discharges. Therefore, Smithtown failed to conduct outfall reconnaissance inventory, as described in the EPA publication, including but not limited to, dry weather outfall screening addressing every outfall within the urbanized area and additionally designated area within the permittee's jurisdiction at least once every five years, with reasonable progress each year, in violation of Part VII.A.3.d of the Permit.
10. Part VII.A.3.f of the Permit requires all permittees to prohibit, through a law, ordinance or other regulatory mechanism, illicit discharges into the small MS4 and implement appropriate enforcement procedures and actions. This mechanism must be equivalent to the State's model IDDE local law "NYSDEC Model Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer Systems". The mechanism must be certified by the attorney representing the small MS4 as being equivalent to the State's model illicit discharge local law. According to Smithtown's 2011 submitted Annual Report and

Town representatives, an attorney representing the Town has not certified the Town's IDDE ordinance as being equivalent to the State's model illicit discharge local law. Therefore, Smithtown failed to certify the Town's IDDE ordinance, Chapter 315 Water Pollution, by the attorney representing the small MS4 as being equivalent to the State's model illicit discharge local law, in violation of Part VII.A.3.f of the Permit.

11. Part VII.A.3.g of the Permit requires all permittees to develop and implement a program to detect and address non-stormwater discharges to the small MS4. The program must include: available equipment; procedures for identifying and locating illicit discharges (track down); procedures for eliminating illicit discharges; and procedures for documenting actions. At the time of the Audit, Smithtown failed to develop a written program that includes available equipment; procedures for identifying and locating illicit discharges (track down); procedures for eliminating illicit discharges; and procedures for documenting actions, in violation of Part VII.A.3.g of the Permit.
12. Part VII.A.4.a.vii of the Permit requires all permittees to develop, implement and enforce a construction site stormwater runoff control program that describes procedures for Stormwater Pollution Prevention Plan ("SWPPP") review. At the time of the Audit, Smithtown failed to develop written procedures for SWPPP review, in violation of Part VII.A.4.a.vii of the Permit.
13. Part VII.A.4.a.viii of the Permit requires all permittees to develop, implement and enforce a construction site stormwater runoff control program that describes procedures for receipt and follow up on complaints or other information submitted by the public regarding construction site stormwater runoff. At the time of the Audit, Smithtown failed to develop written procedures for receipt and follow up on complaints by the public regarding construction site stormwater runoff, in violation of Part VII.A.4.a.viii of the Permit.
14. Part VII.A.4.a.ix of the Permit requires all permittees to develop, implement and enforce a construction site stormwater runoff control program that describes procedures for site inspections and enforcement of erosion and sediment control measures, including steps to identify priority sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water and permittees shall sign the MS4 Acceptance statement on the Notice of Termination to document that it is acceptable for the owner or operator of a construction project to submit a NOT. At the time of the Audit, Smithtown failed to develop, implement and enforce a program that describes procedures for construction site inspections, enforcement, identifying priority sites for inspection and NOT procedures that include signing the MS4 acceptance statement on the NOT, in violation of Part VII.A.4.a.ix of the Permit.
15. Part VII.A.4.a.x of the Permit requires all permittees to develop, implement and enforce a construction site stormwater runoff control program that educates construction site owner and/or operators about the municipality's construction stormwater requirements, when construction stormwater requirements apply, to whom they apply, the procedures for submission of SWPPPs, construction site inspections, and other procedures associated with control of construction stormwater. At the time of the Audit, Smithtown did not develop and implement a program that educates construction site owners and/or operators about the municipality's construction stormwater requirements, when construction stormwater



requirements apply, to whom they apply, the procedures for submission of SWPPPs, construction site inspections, and other procedures associated with control of construction stormwater, in violation of Part VII.A.4.a.x of the Permit.

16. Part VII.A.4.a.xi of the Permit requires all permittees to develop, implement, and enforce a construction site stormwater runoff control program that ensures that construction site operators have received erosion and sediment control training before they do work within the covered entity's jurisdiction and maintain records of that training. At the time of the Audit, Smithtown failed develop, implement and enforce a program that ensures that construction site operators have received erosion and sediment control training before they do work within the MS4's jurisdiction and maintain records of that training, in violation of Part VII.A.4.a.xi of the Permit.
17. Part VII.A.5.a.vi of the Permit requires all permittees to develop, implement, and enforce a post-construction stormwater management program that maintains an inventory of post-construction stormwater management practices within the MS4's jurisdiction. At the time of the Audit, Smithtown failed to develop, implement and enforce a program that maintains an inventory of post-construction stormwater management practices discharging to the small MS4 that have been installed since March 10, 2003, all practices owned by the small MS4, and those practices found to cause or contribute to water quality standard violations, in violation of Part VII.A.5.a.vi of the Permit.
18. Part VII.A.5.a.vii of the Permit requires all permittees to develop, implement and enforce a post-construction stormwater management program that ensures adequate long-term operation and maintenance of management practices identified in Part VII.5.a.vi by trained staff, including inspection to ensure that practices are performing properly. Smithtown does not routinely inspect and does not have a long-term operation and maintenance plan for post-construction stormwater management practices within the MS4's jurisdiction. Therefore, Smithtown failed to develop, implement and enforce a program that ensures adequate long-term operation and maintenance of management practices identified in Part VII.5.a.vi by trained staff, including inspection to ensure practices are performing properly, in violation of Part VII.A.5.a.vii of the Permit.
19. Part VII.A.6.a.i of the Permit requires all permittees to develop and implement a pollution prevention/good housekeeping program for municipal operations and facilities that addresses municipal operations and facilities that contribute or potentially contribute Pollutants of Concern ("POCs") to the small MS4 system. The operations and facilities may include, but are not limited to: street and bridge maintenance; winter road maintenance; stormwater system maintenance; vehicle and fleet maintenance; park and open space maintenance; municipal building maintenance; solid waste management; new construction and land disturbances; right-of-way maintenance; marine operations; hydrologic habitat modification; or other. At the time of the Audit, EPA inspectors observed inadequate pollution prevention/good housekeeping program development and implementation at the following locations that contribute or potentially contribute POCs to the small MS4 system, in violation of Part VII.A.6.a.i of the Permit:

- i. At the Highway Department – Smithtown Yard:
    - a. At least four (4) floor drains located in the vehicle maintenance garage, where vehicle maintenance, oil changes and parts cleaning occurs, discharge into the MS4 system located on-site and oil sheens were observed on liquids in catch basins;
    - b. Vehicle washwater containing detergent enters the MS4 system on-site;
    - c. Car battery exposed to stormwater located at the metal recycling stock pile immediately uphill from a stormwater catch basin; and
    - d. Stormwater runoff from the unroofed fueling station enters the MS4 system on-site.
  - ii. At the Highway Department – Kings Park Yard:
    - a. Vehicles are washed using detergent and wax on-site east of the garage in an unroofed area. Vehicle washwater drains east and ponds in an area containing phragmites vegetation on-site and then flows south down the paved driveway and east into a stormwater catch basin on Old Northport Road;
    - b. At the time of the Audit, oil sheen was observed on liquids flowing from the ponding area, down the paved driveway and into the catch basin on Old Northport Road;
    - c. Additional stock piles of metal, asphalt, stone and sediment are stored on the east side of the facility exposed to stormwater uphill from the driveway. At the time of the Audit, oil sheen was observed on liquids flowing from the stockpile area toward the paved driveway; and
    - d. Stormwater runoff from the unroofed fueling station enters the catch basins on Old Northport Road and at the time of the Audit, oil sheens were observed on pooling liquids located in the fueling area.
20. Part VII.A.6.a.ii of the Permit requires that the permittee must, at a minimum frequency of once every three years, perform a self assessment of all municipal operations addressed by the SWMP to: determine the sources of pollutants potentially generated by the permittee's operations and facilities; and identify the municipal operations and facilities that will be addressed by the pollution prevention and good housekeeping program, if it is not done already. At the time of the Audit, Smithtown failed to perform a self assessment of all municipal operations addressed by the SWMP, at a minimum frequency of once every three years, in violation of Part VII.A.6.a.ii of the Permit.
21. Part VII.A.6.a.vi of the Permit requires the permittee to develop and implement a pollution prevention/good housekeeping program for municipal operations and facilities that includes an employee pollution prevention and good housekeeping training program and ensures that staff receive and utilize training. Annual Reports submitted by the Town in 2009, 2010 and 2011 list zero stormwater management trainings provided to employees. Therefore, Smithtown failed to include employee pollution prevention and good housekeeping training as part of its pollution prevention and good housekeeping program, in violation of Part VII.A.6.a.vi of the Permit.
22. Part VII.A.6.d of the Permit requires that all permittees must adopt techniques to reduce the use of fertilizers, pesticides, and herbicides, as well as potential impact to surface water. According to Town representatives, fertilizers are applied once in the spring and once in the fall to all Town buildings and ball fields. At the time of the Audit, the Town did not track and report to the NYSDEC the use of fertilizers and the Town's SWMP Plan did not include techniques adopted to reduce the use of fertilizers as well as potential impact to surface water, in violation of Part VII.A.6.d of the Permit.

#### **D. Ordered Provisions**

Based on the Findings of Violation set forth above, and pursuant to Section 309(a) of the CWA, 33 U.S.C. §1319(a), the Town of Smithtown is hereby ORDERED to take the following actions:

1. Immediately upon receipt of the original copies of this Order, a responsible official of the Town of Smithtown shall complete and sign the acknowledgment of receipt of one of the originals of the Order and return said original to Compliance Section Chief, Water Compliance Branch, Division of Enforcement and Compliance Assistance, in the enclosed envelope, to the address listed below.
2. The Town of Smithtown shall complete the following items in accordance with the schedule listed below:

#### **Item**

#### **Completion Deadline**

<p>i. Develop and implement appropriate pollution prevention measures at the following areas/operations at municipal facilities that contribute or potentially contribute Pollutants of Concern ("POCs") to the small MS4 system, as required by Part VII.A.6.a.i of the Permit, including but not limited to addressing each of the following sources of pollutants at the Town Highway Yards:</p> <p>a. At the Highway Department – Smithtown Yard:</p> <ol style="list-style-type: none"><li>1. At least four (4) floor drains located in the vehicle maintenance garage, where vehicle maintenance, oil changes and parts cleaning occurs, discharge into the MS4 system located on-site and oil sheens were observed on liquids in catch basins;</li><li>2. Vehicle washwater containing detergent enters the MS4 system on-site;</li><li>3. Car battery exposed to stormwater located at the metal recycling stock pile immediately uphill from a stormwater catch basin; and</li><li>4. Stormwater runoff from the unroofed fueling station enters the MS4 system on-site.</li></ol> <p>b. At the Highway Department – Kings Park Yard:</p> <ol style="list-style-type: none"><li>1. Vehicles are washed using detergent and wax on-site east of the garage in an unroofed area. Vehicle washwater drains east and ponds in an area containing phragmites vegetation on-site and then flows south down the paved driveway and east into a stormwater catch basin on Old Northport Road;</li><li>2. At the time of the Audit, oil sheen was observed</li></ol>	<p>Develop and implement immediately</p>
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<p>on liquids flowing from the ponding area, down the paved driveway and into the catch basin on Old Northport Road;</p> <p>3. Additional stock piles of metal, asphalt, stone and sediment are stored on the east side of the facility exposed to stormwater uphill from the driveway. At the time of the Audit, oil sheen was observed on liquids flowing from the stockpile area toward the paved driveway; and</p> <p>4. Stormwater runoff from the unroofed fueling station enters the catch basins on Old Northport Road and at the time of the Audit, oil sheens were observed on pooling liquids located in the fueling area.</p>	
<p>ii. Submit to EPA and NYSDEC a written report summarizing the pollution prevent measures taken in response to Item i above. Such report should include photographs documenting measures implemented.</p>	<p>Within thirty (30) days of receipt of this Order</p>
<p>iii. Develop and submit to EPA and NYSDEC measurable goals for each of the MCMs, as required by Part IV.D of the Permit.</p>	<p>Within forty-five (45) days of receipt of this Order</p>
<p>iv. Submit written justification to EPA and NYSDEC for omitting the Construction Site Stormwater Runoff Control program measurable goal in the 2011 Annual Report, as required by Part V.C.3 of the Permit.</p>	<p>Within forty-five (45) days of receipt of this Order</p>
<p>v. Identify and submit to EPA and NYSDEC Pollutants of Concern ("POCs"), as required by Part VII.A.1.a and Part X of the Permit.</p>	<p>Within forty-five (45) days of receipt of this Order</p>
<p>vi. Develop, implement and submit to EPA and NYSDEC written procedures for SWPPP review, as required by Part VII.A.4.a.vii of the Permit.</p>	<p>March 1, 2013</p>
<p>vii. Develop, implement and submit to EPA and NYSDEC written procedures for receipt and follow up on complaints or other information submitted by the public regarding construction site storm water runoff, as required by Part VII.A.4.a.viii of the Permit.</p>	<p>March 1, 2013</p>
<p>viii. Develop, implement and submit to EPA and NYSDEC written procedures for construction site inspections, enforcement, identifying priority construction sites for inspection and NOT procedures including signing the MS4 acceptance statement on the NOT, as required by</p>	<p>March 1, 2013</p>

Part VII.A.4.a.ix of the Permit.	
ix. Develop, implement and submit to EPA and NYSDEC a written program that educates construction site owner and/or operators about the municipality's construction stormwater requirements, when construction stormwater requirements apply, to whom they apply, the procedures for submission of SWPPPs, construction site inspections, and other procedures associated with control of construction stormwater, as required by Part VII.A.4.a.x of the Permit.	March 1, 2013
x. Develop, implement and submit to EPA and NYSDEC a program that documents and tracks construction operator training and that ensures that all construction site operators have proper training, as required by Part VII.A.4.xi of the Permit.	March 1, 2013
xi. Develop, implement and submit to EPA and NYSDEC copies of a signed certification statement, contract or agreement that provides adequate assurance that the third parties will comply with permit requirements applicable to the work performed by the third party, as required by Part IV.G of the Permit.	April 1, 2013
xii. Submit to EPA and NYSDEC a copy of the Town's mechanism to prohibit illicit discharges to the small MS4 and signed certification by the attorney representing the Town that this mechanism is equivalent to the State's model illicit discharge local law, as required by Part VII.a.3.f of the Permit.	April 1, 2013
xiii. Develop, implement and submit to EPA and NYSDEC an employee pollution prevention and good housekeeping training program that ensures employee and contractor training is regularly scheduled, documented, and included in the SWMP Plan, as required by Part VII.A.6.a.vi of the Permit.	April 1, 2013
xiv. Submit a written response to EPA and NYSDEC regarding each of the listed Areas of Concern and Recommendations in the enclosed Audit Report. Including but not limited to, Part III.B.1 of the Permit which requires the Town to ensure no net increase of POCs to an impaired water listed in Appendix 2 of the permit by January 8, 2013. If the Town failed to meet the requirements of Part III.B.1 of the permit, include in the submission to EPA an explanation accompanied	April 1, 2013

with a schedule for achieving this permit requirement.	
xv. Develop and submit to EPA and NYSDEC an outfall map showing the location of all outfalls within the Town's jurisdiction including but not limited to the seven (7) identified unmapped outfalls listed in Attachment F of the Audit Report, as required by Part VII.A.3.b.i of the Permit.	May 1, 2013
xvi. Develop and submit to EPA and NYSDEC a map showing the preliminary boundaries of storm sewersheds, as required by Part VII.A.3.b.ii of the Permit.	May 1, 2013
xvii. Develop, implement and submit to EPA and NYSDEC a written program that includes available equipment; procedures for identifying and locating illicit discharges (trackdown); procedures for eliminating illicit discharges; and procedures for documenting actions, as required by Part VII.A.3.g of the Permit.	May 1, 2013
xviii. Conduct and submit to EPA and NYSDEC a self assessment of all municipal operations and facilities addressed by the SWMP, as required by Part VII.A.6.a.ii of the Permit.	May 1, 2013
xix. Conduct and submit documentation to EPA and NYSDEC an outfall reconnaissance inventory at every outfall within the Town's jurisdiction, as described in the EPA publication entitled Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment, as required by Part VII.A.3.d of the Permit.	June 1, 2013
xx. Develop, implement and submit to EPA and NYSDEC an inventory of post-construction stormwater management discharging to the small MS4 that have been installed since March 10, 2003, all practices owned by the small MS4, and those practices found to cause or contribute to water quality standard violations, as required by Part VII.A.5.a.vi of the Permit.	June 1, 2013
xxi. Develop, implement and submit to EPA and NYSDEC a written program that ensures adequate long-term operation and maintenance of post-construction management practices identified in Part VII.5.a.vi by trained staff, including inspection to ensure that	June 1, 2013



practices are performing properly, as required by Part VII.A.5.a.vii of the Permit.	
xxii. Develop, implement and submit to EPA and NYSDEC a written plan that adopts techniques to reduce the use of fertilizers as well as potential impact to surface water, as required by Part VII.A.6.d of the Permit.	June 1, 2013
xxiii. Submit annual reports so that they are received by NYSDEC by June 1 of each reporting year, as required by Part V.C.1 of the Permit.	Annually, starting June 1, 2013
xxiv. Submit to EPA and NYSDEC an updated SWMP Plan, developed in accordance with Permit requirements, which includes at a minimum the following: <ul style="list-style-type: none"> <li>a. Updates to incorporate 2008 and 2010 additional permit requirements;</li> <li>b. Identified Pollutants of Concern ("POCs");</li> <li>c. Developed measurable goals;</li> <li>d. SWMP Plan review and update procedure;</li> <li>e. Applicable local laws including Chapter 315, Water Pollution;</li> <li>f. Enforcement escalation procedures necessary to implement SWMP;</li> <li>g. Program budget;</li> <li>h. Written procedures for responding to public complaints;</li> <li>i. Available Illicit Discharge Detection Elimination ("IDDE") equipment, written procedures for identifying and locating illicit discharges (trackdown), procedures for eliminating illicit discharges, procedures for conducting dry weather monitoring of outfalls, and procedures for documenting actions;</li> <li>j. Outfall and MS4 system maps;</li> <li>k. Construction site SWPPP review procedures, SWPPP review letters, SWPPP acceptance procedures; submitted SWPPPs; SWPPP conditional release procedures and approvals; construction site inspection procedures, construction site inspection reports; construction site Notice of Termination ("NOT") procedures, construction site operator training documentation and procedures for documenting actions;</li> <li>l. Written procedures for routine inspections of post-construction stormwater management practices and written plans for adequate operation and</li> </ul>	July 1, 2013

maintenance; m. Municipal facilities and operations self-assessment procedure, documentation and results; n. Techniques to reduce the use of fertilizers and potential impact to surface water; o. Vehicle inventory and maintenance BMPs, road maintenance and deicing activities BMPs, catch basin cleaning and street sweeping procedures; Town facility BMPs, spill response procedure and procedures for documenting actions; p. Town owned or operated facility inventory; q. Spill response procedures; and r. Employee pollution prevention and good housekeeping training program.	
xxv. Submit quarterly progress reports to EPA and NYSDEC outlining all activities undertaken and costs associated with compliance with this Order.	Quarterly, starting March 1, 2013

3. All information required to be submitted by this Order shall be sent in accordance with the General Provisions below to the following address:

Compliance Section Chief  
 Water Compliance Branch  
 Division of Enforcement and Compliance Assistance  
 290 Broadway, 20th Floor  
 New York, New York 10007-1866

and

Bill Spitz, Regional Water Engineer  
 NYSDEC, Region 1  
 Division of Water  
 50 Circle Road  
 Stony Brook, New York 11790-3409

#### **E. General Provisions**

- Any documents to be submitted by Respondent as part of this Order shall be sent by certified mail or its equivalent and shall be signed by an authorized representative of the respective entity (see 40 CFR §122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and

belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. The Respondent shall have the opportunity, for a period of twenty (20) days from the date of receipt of this Order, to confer, regarding the Ordered Provisions, with the following designated Agency representative:

Doughlas McKenna, Chief  
Water Compliance Branch  
Division of Enforcement and Compliance Assistance  
U.S. Environmental Protection Agency - Region 2  
290 Broadway-20<sup>th</sup> Floor  
New York, New York 10007-1866  
(212) 637-4244

3. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, which provides the grounds for such review.
4. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, its implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
5. Notice is hereby given that should EPA commence an action in a United States District Court for a violation of any Ordered Provision of this Order Respondent may be subject to (1) civil penalties up to \$37,500 per day for each day of violation, pursuant to Section 309(d) of the CWA, 33 U.S.C. §1319(d), and/or (2) injunctive relief, pursuant to Section 309(b) of the CWA, 33 U.S.C. §1319(b), as imposed by the Court.
6. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
7. This Order shall become effective upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.

Dated: JANUARY 24, 2013 Signed: \_\_\_\_\_

Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

**IN THE MATTER OF:**

Town of Smithtown  
99 West Main Street  
Smithtown, New York 11787

**RESPONDENT**

Proceeding pursuant to Section 309(a) of the  
Clean Water Act, 33 U.S.C. §1319(a)

**ADMINISTRATIVE**  
**COMPLIANCE ORDER**

**CWA-02-2013-3012**

**ACKNOWLEDGMENT OF RECEIPT OF  
ADMINISTRATIVE COMPLIANCE ORDER**

I, \_\_\_\_\_, an official of the Town of Smithtown with the title

of, \_\_\_\_\_, do hereby acknowledge the receipt of copy of the

ADMINISTRATIVE ORDER, Town of Smithtown CWA-02-2013-3012.

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_

# Water Compliance Inspection Report

## Section A: National Data System Coding (i.e., PCS)

Transaction Code		NPDES		yr/mo/day		Inspection Type		Inspector		Fac Type	
1	2	3	4	5	6	7	8	9	10	11	12
1	5	3	1	4	1	2	0	1	2	7	1
				Remarks							
21											
Inspection Work Days		Facility Self-Monitoring Evaluation Rating		BI		QA		Reserved			
67	11	10	69	70	71	72	73	74	75	76	77
67	11	10	69	70	71	72	73	74	75	76	77

## Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) Town of Smithtown 124 West Main Street Smithtown, NY 11787	Entry Time/Date 9:00 AM 05/22/2012	Permit Effective Date 05/01/2010
	Exit Time/Date 5:30 PM 05/24/2012	Permit Expiration Date 04/30/2015
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) Russell K. Barnett, Environmental Protection Director, Town of Smithtown 124 West Main Street, Smithtown, NY 631-360-7514 11787	Other Facility Data (e.g., SIC NAICS, and other descriptive information)	
Name, Address of Responsible Official/Title/Phone and Fax Number Patrick R. Vecchio, Town Supervisor 99 West Main Street, P.O. Box 9090 Smithtown, NY 11787	Contacted <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

## Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input checked="" type="checkbox"/>	Permit	<input type="checkbox"/>	Self-Monitoring Program	<input type="checkbox"/>	Pretreatment	<input checked="" type="checkbox"/>	MS4
<input checked="" type="checkbox"/>	Records/Reports	<input type="checkbox"/>	Compliance Schedules	<input type="checkbox"/>	Pollution Prevention		
<input checked="" type="checkbox"/>	Facility Site Review	<input type="checkbox"/>	Laboratory	<input type="checkbox"/>	Storm Water		
<input type="checkbox"/>	Effluent/Receiving Waters	<input checked="" type="checkbox"/>	Operations & Maintenance	<input type="checkbox"/>	Combined Sewer Overflow		
<input type="checkbox"/>	Flow Measurement	<input type="checkbox"/>	Sludge Handling/Disposal	<input type="checkbox"/>	Sanitary Sewer Overflow		

## Section D: Summary of Findings/Comments

(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

SEV Codes	SEV Description
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	See attached audit report
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
Kimberly McEathren <i>Kimberly McEathren</i>	USEPA/DECA-WCB/212-637-4228	12/11/12
Signature of Management Q A Reviewer	Agency/Office/Phone and Fax Numbers	Date
Chuck Allen <i>Chuck Allen</i>	USEPA/DECA-WCB (212) 637-3500	12/20/12

**Municipal Separate Storm Sewer System (MS4) Audit  
Town of Smithtown (NYR20A277)  
May 22, 2012 through May 24, 2012**

**Prepared by:**

**United States Environmental Protection Agency Region 2  
290 Broadway  
New York, New York 10007**



**Town of Smithtown MS4 (NYR20A277)**  
**May 22, 2012 – May 24, 2012**

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## **Town of Smithtown MS4 (NYR20A277)**

**May 22, 2012 – May 24, 2012**

### **1. INTRODUCTION**

On May 22, 2012 through May 24, 2012, the United States Environmental Protection Agency (EPA), Region 2, conducted a program evaluation, or Audit, of the Town of Smithtown (Town) Municipal Separate Storm Sewer System (MS4). EPA is granted the authority to conduct the Audit through 40 CFR 122.41(i). Ms. Kimberly McEathron of EPA Region 2 conducted the Audit. Ms. Katherine Mann, also from EPA Region 2, was present for the Audit. EPA staff was accompanied by Ms. Sara Dorman from New York State Department of Environmental Conservation (NYSDEC) Region 1 and Ms. Eileen Keenan from Sea Grant – New York. For the detailed Audit agenda see Attachment A.

The following individuals represented the Town of Smithtown at the Audit:

- Russell K. Barnett, Environmental Protection Director, Department of Environment and Waterways;
- Stephanie Hurd, Senior Environmental Analyst, Department of Environment and Waterways;
- Richard Kitt, Environmental Analyst, Department of Environment and Waterways;
- Matthew D. Lankowicz, Safety Officer, Department of Environment and Waterways;
- Michael P. Engelmann, Solid Waste Coordinator, Department of Environment and Waterways;
- Thomas J. DiGiacomo, P.E., Civil Engineer, Engineering Department;
- Mark L. Riley, P.E., Assistant Town Engineer, Engineering Department;
- Glenn Jorgensen, Superintendent of Highways, Highway Department; and
- Matthew V. Jakubowski, Deputy Town Attorney.

The purpose of the Audit was to determine the Town's compliance with the terms of its State Pollutant Discharge Elimination System (SPDES) MS4 Permit and to evaluate the current implementation status of the Town's stormwater management program. Prior to conducting the Audit, EPA Region 2 reviewed program materials received from the Town and NYSDEC (see Attachment B). During the Audit, the Town provided EPA Region 2 with copies of additional program materials (see Attachment B). For this Audit, EPA Region 2 evaluated specific aspects of each Minimum Control Measure (MCM): Public Education and Outreach, Public Involvement and Participation, Construction Site Stormwater Runoff Control, Post-Construction Stormwater Management, Pollution Prevention and Good Housekeeping for Municipal Operations and Illicit Discharge, Detection and Elimination. EPA Region 2's Audit included in-field verification of program implementation.

### **2. HISTORY & BACKGROUND**

The State of New York is the delegated permitting and enforcement authority for the National Pollutant Discharge Elimination System (NPDES) or State Pollutant Discharge Elimination System (SPDES) program. NYSDEC is the delegated agency that implements the SPDES program and as such, issued a SPDES General Permit for Storm Water Discharges from

## **Town of Smithtown MS4 (NYR20A277)**

**May 22, 2012 – May 24, 2012**

Municipal Separate Storm Sewer Systems (GP-0-10-002), which became effective on May 1, 2010 and expires on April 30, 2015.

The Town of Smithtown submitted a Notice of Intent (NOI) to NYSDEC on February 25, 2003 and subsequently, received Permit coverage under the MS4 General Permit (GP-02-02) (NYR20A411), which became effective on January 8, 2003 and expired on January 8, 2008. The NYSDEC issued the Town of Smithtown an Acknowledgement of Notice of Intent on April 2, 2003. Permit coverage remained in full force and effect and was automatically carried over upon the reissuance of MS4 General Permit (GP-08-002), which became effective on May 1, 2008 and expired on April 30, 2010. Upon expiration, permit coverage was automatically carried over to the current permit, MS4 General Permit (GP-0-10-002) (MS4 General Permit, SPDES General Permit or Permit).

The Town's Stormwater Management Program (SWMP) Plan was developed in March 2003 by the Town's Department of Environment and Waterways in cooperation with the Town's Engineering Department, Highway Department and Department of Parks, Buildings and Grounds. In accordance with the 2003 Permit, the Town was required to have fully implemented its SWMP by January 8, 2008. According to Town representatives and documents provided at the time of the Audit, the SWMP Plan has not been revised since the March 2003 version.

### **3. PROGRAM EVALUATION RESULTS**

#### **A. Evaluation of Program Management and Effectiveness; Agreements with Other Municipalities; Stormwater Pollution Prevent Program (SWMP) Plan**

##### **1. Findings:**

The Town of Smithtown, located in Suffolk County, New York is approximately 53.3 square miles and has approximately 117,801 residents according to 2010 census data. The Town is bordered by Smithtown Bay to the north, the Town of Brookhaven to the east, the Town of Islip to the south and the Town of Huntington to the west. The Town of Smithtown includes the unincorporated Hamlets of Commack, Fort Salonga, Hauppague, Kings Park, Ronkonkoma, Nesconset, Saint James and Smithtown. Incorporated Villages located within the Town of Smithtown but are not under the jurisdiction of the Town include the Villages of Head of the Harbor, Nissequogue and The Branch.

Permitted MS4s within, and separate from, the Town of Smithtown include Suffolk County, NYS Department of Transportation (NYSDOT) and Villages of Head of the Harbor, Nissequogue, and The Branch. The Town does not have formal intermunicipal agreements with these municipalities regarding MS4s. The Town of Smithtown, Village of Head of the Harbor and the Village of Nissequogue have a Waterfront Revitalization Agreement that develops jointly a Nissequogue Coastal Commission administered through the Town code adopted in 1989. The Nissequogue Coastal Commission is tasked with coordinating between the municipalities improvements to the Nissequogue River waterfront including the removal of



**Town of Smithtown MS4 (NYR20A277)**

**May 22, 2012 – May 24, 2012**

deposited sand. Town representatives stated that there is a maintenance agreement between the Town and the NYSDOT for highway maintenance. However, this agreement has not been produced by the Town. According to Town representatives, there are no known interconnections between the Town and adjacent MS4s.

According to the Town's Point Discharge Drainage Map dated January 10, 2008, the Town's MS4 outfalls discharge stormwater to Long Island Sound, Fresh Pond, Sunken Meadow Creek, Nissequogue River, Willow Pond, Phillips Mill Pond, Webster Pond, New Mill Pond, Hauppauge Springs, Northeast Branch, Millers Pond, Hunts Pond, Gibbs Pond, Lake Ronkonkoma and Spectacle Pond. The Town of Smithtown's stormwater collection system is a combination of storm sewers, outfalls, catch basins, recharge basins, leaching pools, and infiltration basins.

Ms. Stephanie Hurd, Senior Environmental Analyst has been the Town's MS4 Program Coordinator since 2003 and is responsible for coordinating SWMP implementation under the direct supervision of Mr. Russell K. Barnett, Environmental Protection Director in the Department of Environment and Waterways. According to the stormwater management program implementation schedule provided by the Town and discussions during the Audit, the stormwater program is managed out of the Department of Environment and Waterways; however implementing the stormwater program is a coordinated effort between the Engineering Department, Highway Department, Department of Parks, Buildings and Grounds, Planning Department, Sanitation Department, Town Attorney, Town Board, Town Clerk and the Advisory Committee (see Attachment C). The Town's appointed Conservation Board reviews land development activities and environmental initiatives including stormwater and MS4 related issues. The Conservation Board includes citizens of the Town and Ms. Hurd, the MS4 Program Coordinator, participates in the regular meetings which take place annually and on an as needed basis to conduct the public hearing regarding the stormwater program.

Third Parties

According to Town Representatives, the Town relies on third parties, including contracted garbage haulers and spill responders, to conduct work relevant to the MS4 program. However, the third party contractors have not signed the certification statement listed in the MS4 Permit, and the statement is not included in contracts with the Town.

SWMP Plan

According to Town representatives and documents provided at the time of the Audit, the SWMP Plan has not been revised since the March 2003 version. The Town does not have a regularly scheduled SWMP Plan update procedure. The SWMP Plan did not include all procedures and items required as listed in Potential Violations 3.a below.

**2. Areas of Concern and Recommendation:**

- a) Town representatives stated that there is a maintenance agreement between the Town and the NYSDOT for highway maintenance. However, this agreement has not been produced by the Town.

**3. Potential Violations:**

- a) Part IV.A of the Permit states that covered entities under GP-0-08-002 must have prepared a SWMP Plan documenting modifications to their SWMP. In accordance with the 2003 permit, the Town was required to have fully implemented its SWMP by January 8, 2008. Part V.B of the Permit requires permittees to keep records required by this SPDES general permit for at least five (5) years after they are generated. Part VII.A of the Permit states that for each of the elements of the SWMP Plan, the permittees must identify (i) the agencies and/or offices that would be responsible for implementing the SWMP Plan element and (ii) any protocols for coordination among such agencies and/or offices necessary for the implementation of the plan element. Part X.B of the Permit defines Stormwater Management Program Plan as being used by the Permittee to document developed, planned and implemented SWMP elements. The SWMP Plan should include a detailed written explanation of all management practices, activities and other techniques the permittee has developed, planned and implemented for their SWMP to address Pollutants of Concern (POCs) and reduce pollutant discharges from their small MS4 to the Maximum Extent Practical (MEP). The SWMP Plan shall be revised to incorporate any new or modified Best Management Practices (BMPs) or measurable goals. The Town's developed March 2003 SWMP Plan did not include the following SWMP Plan elements:

- i. Updates to incorporate 2008 and 2010 additional permit requirements;
- ii. Identified Pollutants of Concern (POCs);
- iii. Developed measurable goals;
- iv. SWMP Plan review and update procedure;
- v. Applicable local laws including Chapter 315, Water Pollution;
- vi. Enforcement escalation procedures necessary to implement SWMP;
- vii. Program budget;
- viii. Written procedures for responding to public complaints;
- ix. Available Illicit Discharge Detection Elimination (IDDE) equipment, written procedures for identifying and locating illicit discharges (trackdown), procedures for eliminating illicit discharges, procedures for conducting dry weather monitoring of outfalls, and procedures for documenting actions;
- x. Outfall and MS4 system maps;
- xi. Construction site SWPPP review procedures, SWPPP review letters, SWPPP acceptance procedures; submitted SWPPPs; SWPPP conditional release procedures and approvals; construction site inspection procedures, construction site inspection reports; construction site Notice of Termination (NOT) procedures, construction site operator training documentation and procedures for documenting actions;

**Town of Smithtown MS4 (NYR20A277)**

**May 22, 2012 – May 24, 2012**

- xii. Written procedures for routine inspections of post-construction stormwater management practices and written plans for adequate operation and maintenance;
- xiii. Municipal facilities and operations self-assessment procedure, documentation and results;
- xiv. Vehicle inventory and maintenance BMPs, road maintenance and deicing activities BMPs, catch basin cleaning and street sweeping procedures; Town facility BMPs, spill response procedure and procedures for documenting actions;
- xv. Town owned or operated facility inventory;
- xvi. Spill response procedures; and
- xvii. Employee pollution prevention and good housekeeping training program.

- b) Part IV.G of the Permit requires that all permittees must, through a signed certification statement, contract or agreement, provide adequate assurance that the third parties will comply with permit requirements applicable to the work performed by the third party. Town-hired contractors (garbage haulers and spill responders) have not signed the certification statement listed in the MS4 Permit, and the statement is not included in contracts with the Town.

**B. Public Education and Outreach / Public Involvement and Participation**

**1. Findings:**

The Town's SWMP Plan does not identify Pollutants of Concern (POC) within the MS4 and Town representatives specified that all pollutants are of concern to the Town. A water body of concern and geographic area of concern identified in the SWMP Plan includes the Nissequogue River and its tributaries although outreach material is distributed to the entire Town and not just the portion of the Town MS4 that discharges stormwater to the Nissequogue River. The Town's MS4 discharges stormwater to Millers Pond (specifically, Outfall F8.1) which is listed in Appendix 2 as being impaired due to phosphorus and to Lake Ronkonkoma (specifically, Outfalls J9.1 and J9.2) which is listed in Appendix 2 for phosphorus and pathogens.

Part III.B.1 of the Permit requires permittees to assess potential sources of POCs, identify potential stormwater pollutant reduction measures, and evaluate their progress in addressing POCs by January 8, 2013. According to Town representatives, the Town has yet to begin any progress toward completing this requirement.

Target audiences for public education and outreach within the Town include automotive service stations. According to the SWMP Plan and Town representatives, all automotive service stations within the Town are visited on an annual basis by a Town representative to explain the State requirement for the facility to accept used motor oil from residents for recycling at no charge. The Town also provides each facility with a free window decal that states "We Accept Used Oil for Recycling at No Charge". To document this program, the Town maintains a participation record which is a spreadsheet listing all service stations within the Town and whether they already had a decal, accepted a new one or refused to accept one. According to the 2011



## **Town of Smithtown MS4 (NYR20A277)**

**May 22, 2012 – May 24, 2012**

participation record, sixty-three (63) service stations already had the decal, three (3) accepted a new one and zero (0) refused.

Public outreach material developed by the Town includes a “Refuse/Recycling Calendar” and the “Smithtown Recreation” guide that are both mailed annually to all Town residents. The Smithtown Recreation guide for 2012 includes methods for proper paint disposal and collection information regarding electronic waste recycling, household hazardous waste and fluorescent light bulbs. The 2012 Refuse/Recycling Calendar includes information regarding the disposal and collection of household hazardous waste, batteries, used motor oil, antifreeze, propane tanks, paint, fluorescent light bulbs, electronic waste and general waste pickup. Town representatives stated that the Town keeps a running tally of number of participants in the hazardous household waste collection program and have had a 50% increase in residents participating in 2011 compared to 2010.

The Town also provides a welcome to Smithtown guide for new homeowners within the Town. According to the SWMP Plan, this guide includes “Clean Water Starts With You”, “Clean Water For Long Island”, “Low Maintenance Lawns” and “Don’t Mess With Our Beaches” pamphlets.

At the time of the Audit, the Town of Smithtown did not utilize the Town website for displaying or disseminating stormwater related information.

According to Town representatives, since 1994 every catch basin within the Town has been marked at least once with a “drains to surface water” or “drains to drinking water” marking. The Town began using paint to stencil the marking on to catch basins but now uses thermo-plastic stencils. According to the Town’s Annual Reports submitted to NYSDEC, in 2009 approximately 163 catch basins were labeled, 115 in 2012 and 45 in 2011. According to Town representatives, the total number of catch basins is not known.

### Public complaints

At the time of the Audit, the Town of Smithtown did not have written procedures for receipt and follow up on public complaints regarding illicit connections, discharges, construction site stormwater runoff and other MS4 related complaints. According to Town representatives, public complaints are primarily received by Town Code Enforcement office, a division of the Public Safety Department, which receive complaints and can dispatch a crew in response to complaints 24 hours a day, seven days a week and every day of the year.

### Reported Measurable Goals

The Public Education and Outreach program measurable goal listed in the 2010 and 2011 Annual Reports is:

- To conduct service station inspections for Oil Recycling Program

The Public Involvement and Participation program measurable goal listed in the 2009, 2010 and 2011 Annual Reports is:

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- Storm drain markings

**2. Areas of Concern and Recommendations:**

- a) The Town should consider adding the number of participants in the hazardous household waste collection program as a measurable goal to evaluate program effectiveness.
- b) The Town should consider using the Town website as a way to display and disseminate stormwater educational material and MS4 related information for its residents use.
- c) Part III.B.1 of the Permit requires permittees to assess potential sources of POCs, identify potential stormwater pollutant reduction measures, and evaluate their progress in addressing POCs by January 8, 2013. According to Town representatives, the Town has yet to begin any progress toward completing this requirement. The Town is required to meet this deadline and should be making steady progress towards meeting this requirement.

**3. Potential Violations**

- a) Part VII.A.1.a of the Permit requires permittees to identify Pollutants of Concern (POCs) and Part X of the Permit defines POCs as nitrogen, phosphorus, silt and sediment, pathogens, flow, and floatables impacting impaired waterbodies listed on the Priority Waterbody List known to come in contact with stormwater that could be discharged to that water body. The Town discharges stormwater to Millers Pond (specifically, Outfall F8.1) which is listed in Appendix 2 for phosphorus and to Lake Ronkonkoma (specifically, Outfalls J9.1 and J9.2) which is listed in Appendix 2 for phosphorus and pathogens. Phosphorus and pathogens have not been identified by the Town as POCs. Additional Permit requirements not met by the Town of Smithtown due to the lack of identified POCs include Parts III.B.1, VII.A.1.b.ii, VII.A.1.d, VII.A.3.f, VII.A.3.k, VII.A.4.a.xiv, VII.A.5.d and VII.A.6.d of the Permit.

**C. Illicit Discharge Detection and Elimination (IDDE)**

**1. Findings:**

Outfall Mapping

Town representatives stated that all known MS4 outfalls have been digitally mapped with the oldest maps dated January 3, 2008. The most recent map revision was an additional outfall added to the Harrison Pond area map on September 20, 2010. The 2011 and 2010 submitted Annual Reports list eighty-three (83) outfalls have been mapped. At the time of the Audit, EPA identified at least seven (7) unmapped outfalls at locations listed in Table 1. According to Town representatives and the 2009 through 2011 submitted Annual Reports, the Town has not developed a map showing the preliminary boundaries of the storm sewershed.

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### IDDE Ordinance

According to the Town, the regulatory mechanism used by the Town to enforce the IDDE program is Chapter 315, Water Pollution ordinance in the Town code. Chapter 315 was adopted by the Town Board as Chapter 51 of the 1964 Code and was amended on March 20, 1990. Chapter 315 states that no person shall deposit or discharge or cause to be placed or discharged into any water of the Town of Smithtown any of the hereafter named substances or any other substance which may render said waters unfit or undesirable for bathing, boating, fishing or other recreational purposes or which may be deposited upon the public beaches or shores of the Town parks. Forbidden substances listed in Chapter 315 include garbage and sewage and penalties are also included in the ordinance. According to the Town's 2011 submitted Annual Report and Town representatives, an attorney representing the Town of Smithtown has not certified the Town's IDDE ordinance, Chapter 315 Water Pollution, as being equivalent to the State's model illicit discharge local law. Chapter 315 is not mentioned in the SWMP Plan.

### Outfall Inspections

According to Town representatives, every two (2) years the Town's marine biologist conducts a Shoreline Survey of all outfalls in the summer during or immediately after rain events. According to the summer 2011 Shoreline Survey, forty-three (43) outfall locations were visited by the Town's marine biologist. Of those forty-three (43) outfalls, thirteen (13) outfall pipes were not located (see Attachment D). The Town has eighty-three outfalls mapped, therefore, less than half of the mapped outfalls were observed in 2011. Observations included in the Shoreline Survey consist of latitude and longitude of the outfall, location description and possibility of stormwater runoff from adjacent roads and properties. Outfall stormwater flow quality and quantity at each outfall were not included in the 2011 Shoreline Survey written observations. Outfall inspection procedures and targeting are not written in a document or plan.

According to Town representatives, outfall inspections conducted during dry weather have not been conducted. To date, the Town of Smithtown has not conducted outfall reconnaissance inventory, as described in the EPA publication, including but not limited to, dry weather outfall screening. Annual Reports submitted by the Town for 2009, 2010 and 2011 lists zero outfalls having been screened for dry weather discharges.

### IDDE Investigation and Enforcement

According to Town representatives, the Town has access to tablets to be used for dye testing if necessary to investigate a potential illicit connection to the MS4. The Town does not have its own camera equipment and has never televised a storm sewer for the purposes of investigating a potential illicit connection. According to Town representatives, the Town's Code Enforcement office investigates all potential illicit connections until resolution. The Town has not developed a written program that includes available equipment; procedures for identifying and locating illicit discharges (trackdown); procedures for eliminating illicit discharges; and procedures for documenting actions.



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According to the submitted 2010 and 2011 Annual Reports, the Town has detected, confirmed and eliminated zero (0) illicit discharges and potential illegal connections. According to the submitted 2009 Annual Report, the Town detected, confirmed and eliminated an illicit discharge and illegal connection in 2009. According to Town representatives, in 2009 the Town identified during site inspection for street maintenance a pipe from a property connected to the MS4 at the catch basin. Upon further investigation, the Town determined that the pipe was connected to a dishwasher on the property. According to Town representatives, the property owner paid a fine and removed the connection in accordance with Chapter 315 Water Pollution Code. The Town was unable to provide written documentation of this investigation and follow up enforcement at the time of the Audit.

Measurable Goals

Illicit Discharge Detection and Elimination program measurable goal listed in the 2009, 2010 and 2011 Annual Reports is:

- Shoreline Survey – began tracking in 1988.

**2. Field Components:**

During the Audit, EPA observed twenty-one (21) Town of Smithtown MS4 outfalls including seven (7) unmapped outfalls. EPA's findings and observations from each outfall are summarized below in Table 1. Weather conditions at the time of the outfall observations were dry and weather conditions in the forty-eight (48) hours prior to the outfall observations were rainy with approximately 0.25 inches of rain received on both May 21, 2012 and May 22, 2012. Photographs of the unmapped outfalls observed are included in Attachment E.

**Table 1**

<b>Observed Outfall</b>	<b>Location Lat/Long</b>	<b>Receiving Waterbody</b>	<b>Notable Observations</b>	<b>Date of Observation</b>
D4.2	40.893688, -73.228002	Harrison Pond	Flowing clear at the outfall	5/23/12
D4.3	40.892715, -73.228195	Harrison Pond	Partially submerged outfall	5/23/12
D4.11	40.893688, -73.228002	Nissequogue River	Some foam and debris in upstream catch basin, leaching pool at outfall partially submerged	5/23/12
D4.12	40.895219, -73.225811	Nissequogue River	Water in catch basin, could see outfall pipe from road only	5/23/12
D4.15	40.893131, -73.228002	Harrison Pond	No flow at the outfall	5/23/12
E4.7	40.897903, -73.217676	Nissequogue River	No flow at the outfall	5/23/12
E4.8 and	40.898114,	Nissequogue	Two metal corrugated	5/23/12

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Unmapped Outfall #1	-73.218952 and 40.89813, -73.219135	River	outfall pipes from two catch basins and two leaching rings, one broken and both are covered in debris and vegetation (see photographs P5230898.JPG, P5230899.JPG and P5230901.JPG)	
E4.9	40.898203, -73.220766	Nissequogue River	No flow, leaching ring at discharge point	5/23/12
E7.1	40.861878, -73.204286	Nissequogue River	Upstream catch basin full of water, no flow at the outfall	5/24/12
E7.2	40.863672, -73.200681	Nissequogue River	No flow at the outfall	5/24/12
E7.3	40.863866, -73.200569	Nissequogue River	No flow at the outfall	5/24/12
E8.2	40.846036, -73.20765	Nissequogue River Northeast Branch	Upstream catch basin filled with sediment and outfall pipe submerged	5/24/12
E9.4	40.841456, -73.201507	Nissequogue River Northeast Branch	Steady clear flow at the outfall	5/24/12
F6.1	40.86656, -73.195966	Nissequogue River	Upstream catch basin full of debris and water, no flow at outfall	5/24/12
Unmapped Outfall #2	South of D4.15, culvert pipe from marsh area to Harrison Pond, 40.892691, -73.227876	Harrison Pond	~24" corrugated metal pipe, flowing clear at the outfall, rusted out bottom of pipe (see photograph P5230885.JPG)	5/23/12
Unmapped Outfall #3	North side of Saint Johnland Road at Nissequogue River, 40.893905, -73.227848	Nissequogue River	~18" corrugated plastic pipe, flowing clear at the outfall (see photographs P5230887.JPG and P5230888.JPG)	5/23/12
Unmapped Outfall #4	At Riviera Drive and Hemlock Drive, 40.895582, -73.224502	Nissequogue River	~36" metal corrugated pipe, flowing clear at the outfall, pipe 1/3 full with sediment (see photographs P5230892.JPG and P5230894.JPG)	5/23/12
Unmapped Outfall #5	Southwest of Riviera Drive and Hemlock Drive,	Nissequogue River	~12" metal corrugated pipe, flowing clear at the outfall (see photograph	5/23/12

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	40.895555, -73.224556		P5230893.JPG)	
Unmapped Outfall #6	South side of Brook Lane east of Nissequogue River Northeast Branch crossing, 40.840364, -73.202049	Nissequogue River Northeast Branch	~18" corrugated plastic pipe, no flow at the outfall (see photographs DSCN0261.JPG and DSCN0262.JPG)	5/24/12
Unmapped Outfall #7	North side of Brook Lane east Nissequogue River Northeast Branch crossing, 40.840506, -73.202006	Nissequogue River Northeast Branch	~24" corrugated plastic pipe, no flow at the outfall (see photograph DSCN0263.JPG)	5/24/12

**3. Potential Violations:**

- a) Part VII.A.3.b.i of the Permit states that at a minimum all permittees must develop and maintain a map, at a minimum within the permittees' jurisdiction in the urbanized area and additionally designated area showing the location of all outfalls. At the time of the Audit, EPA identified at least seven (7) unmapped outfalls at locations listed in Table 1 of this Audit Report.
- b) Part VII.A.3.b.ii of the Permit states that at a minimum all permittees' must by March 9, 2010, develop and maintain a map showing the preliminary boundaries of the permittees' storm sewersheds have been determined using GIS or other tools, even if they extend outside of the urbanized area (to facilitate track down), and additionally designated area within the permittees' jurisdiction. According to Town representatives and the 2009 through 2011 submitted Annual Reports, the Town has not developed a map showing the preliminary boundaries of the storm sewershed.
- c) Part VII.A.3.d of the Permit requires all permittees to conduct an outfall reconnaissance inventory, as described in the EPA publication entitled Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment, addressing every outfall within the urbanized area and additionally designated area within the permittee's jurisdiction at least once every five years, with reasonable progress each year. The NYSDEC SPDES MS4 General Permit GP-0-08-002 with the effective date of May 1, 2008 includes this requirement, therefore, the five year deadline is May 1, 2013. To date, the Town of Smithtown has not conducted outfall reconnaissance inventory, as described in the EPA publication, including but not limited to, dry weather outfall screening. Annual Reports submitted by the Town for 2009, 2010 and 2011 lists zero outfalls having been screened for dry weather discharges.



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- d) Part VII.A.3.f of the Permit requires all permittees to prohibit, through a law, ordinance or other regulatory mechanism, illicit discharges into the small MS4 and implement appropriate enforcement procedures and actions. This mechanism must be equivalent to the State's model IDDE local law "NYSDEC Model Local Law to Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sewer Systems". The mechanism must be certified by the attorney representing the small MS4 as being equivalent to the State's model illicit discharge local law. According to the Town's 2011 submitted Annual Report and Town representatives, an attorney representing the Town of Smithtown has not certified the Town's IDDE ordinance, Chapter 315 Water Pollution, as being equivalent to the State's model illicit discharge local law.
- e) Part VII.A.3.g of the Permit requires permittees to develop and implement a program to detect and address non-stormwater discharges to the small MS4. The program must include: available equipment; procedures for identifying and locating illicit discharges (trackdown); procedures for eliminating illicit discharges; and procedures for documenting actions. The Town has not developed a written program that includes available equipment; procedures for identifying and locating illicit discharges (trackdown); procedures for eliminating illicit discharges; and procedures for documenting actions.

**D. Construction Site Stormwater Runoff Control and Post-Construction Stormwater Management**

**1. Findings:**

Construction Site Ordinance

The Town ordinance for Stormwater Management and Erosion and Sediment Control, Chapter 153, was adopted October 5, 2010 which replaced former Chapter 153, Erosion and Sediment Control, adopted February 7, 2006. Chapter 153 requires "land development activities that will discharge stormwater to the waters of the Town to conform to the substantive requirements of the NYSDEC SPDES General Permit for Construction Activities GP-02-01 or as amended or revised". The Town ordinance also includes Stormwater Pollution Prevention Plan (SWPPP) requirements and Town enforcement authority including penalties, stop work orders and imprisonment.

Construction Site Inventory

At the time of the Audit, twenty-eight (28) active construction sites were listed by the Town for the purposes of providing EPA an inventory. Although the Town actively keeps a record of all known construction sites greater than one (1) acre within the Town, the Town does not maintain an inventory in the form of a list or database of all construction sites within the Town. Additionally, Town representatives were unaware of the NYSDEC's active construction site database available to the public on the internet. According to Town representatives, SPDES permitted construction sites within the Town were unactive at the time of the Audit and all active

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sites within the Town were unpermitted due to the sites not discharging stormwater to a surface water.

According to Town representatives, the Town does not maintain an inventory of post-construction stormwater management practices within the MS4's jurisdiction.

### “SWPPP Conditional Release”

Chapter 153 of the Town Code states that “any person engaged in a grading activity for which a Stormwater Pollution Prevention Plan (SWPPP) is not required pursuant to this chapter, shall at a minimum, employ stormwater management practices to control erosion and sediment in proportion to the scale of the activity and file with the Stormwater Management Officer a SWPPP waiver certification and agreement”. The Town is in the process of changing the “SWPPP Waiver” designation to a “SWPPP conditional release” to more accurately reflect its purpose, which is to determine that a given site is not subject to the requirement of the State to obtain a permit for stormwater discharges from a construction site greater than one acre.

According to Town representatives, the Town's process for approving a SWPPP conditional release is the Town receives a “SWPPP waiver application” and the Engineering Department reviews the application which includes reviewing the street, where the catch basins discharge, maps and topography of the site and the submitted statement from a Professional Engineer that states that the site does not discharge stormwater to a surface water body. The Town then sends a letter back to the developer of the site approving or disapproving of the application. There have been at least eight (8) construction sites that disturb greater than one (1) acre within the Town but have not obtained SPDES permit coverage because according to the Town they do not discharge stormwater to a surface water body. Town representatives also stated that they have yet to receive a SWPPP Conditional Release application since the development of the SWPPP Conditional Release process in 2010. The Town has not developed a written procedure for implementing the SWPPP Conditional Release process.

### SWPPP Review

Chapter 153 of the Town Code also includes SWPPP requirements and application process. Mr. Thomas DiGiacomo, P.E., Civil Engineer in the Town's Engineering Department has been designated to conduct the SWPPP reviews. Mr. DiGiacomo attended the NYSDEC Design Manual training held March 1, 2011 through March 2, 2011. According to Mr. DiGiacomo, he uses his knowledge of the NYSDEC Design Manual when reviewing SWPPP's and he does not utilize a written checklist as part of the review process or have a written procedure for SWPPP review. According to Mr. DiGiacomo, after a SWPPP has been reviewed, comments requiring revisions are sent back to the applicant via memo until the SWPPP is considered acceptable and then an MS4 SWPPP Acceptance Form is sent from the Town, signed by the Town Engineer, to the applicant attached to a letter signed by Mr. DiGiacomo. The Town Engineering Department coordinates with the Town Building Department to determine if construction sites have the proper approvals and permits prior to construction. The Town maintains a hardcopy of all correspondence with the applicant with SWPPP documents. A Notice of Intent (NOI) form is not

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reviewed by the Town as part of the SWPPP review process. The Town does not utilize a SWPPP review log database or tracking system. The Town's SWMP Plan does not include a SWPPP review procedure or process description.

According to Town representatives, since the start of the Town's MS4 program, there have been a total of four (4) construction sites within the Town that have been required to develop a SWPPP and obtain NYSDEC SPDES permit coverage and that construction has not yet begun at any of them.

According to the NYSDEC construction permittee database, the NYSDEC received an NOI from the Smithtown Public Library Main Branch construction site on June 5, 2009 to obtain SPDES permit coverage for stormwater discharges from construction sites. The NOI states that the construction site discharges to the Town of Smithtown MS4 but did not obtain MS4 SWPPP acceptance. According to Town representatives, this construction site is not a Town owned site and it is unclear why the site didn't receive MS4 SWPPP acceptance. At the time of the Audit, construction at this site was complete.

Construction Site and Post-Construction Inspections

Chapter 153 of the Town Code requires the construction site applicant to notify the Town at least 48 hours prior to the start of construction activities and completion of final landscaping among additional milestones throughout the construction process for the purposes of the Town to conduct an inspection prior to, during and after these milestones.

The Town has three (3) designated erosion and sediment control inspectors, Mr. John DeBella, Mr. Tony Antunes and Mr. Brian Fucigna of the Town Engineering Department. According to certificates provided by the Town, all three (3) inspectors attended the NYSDEC Erosion and Sediment Control Training on March 8, 2011. According to Town representatives, all active construction sites, including those under an acre and those with a SWPPP conditional release, are inspected by the Town approximately on a daily basis. The Town utilizes a notice of inspection form to document deficiencies at a construction site and one copy is kept in the Town's files, one copy is kept by the Town inspector and the other is delivered to the construction site operator.

According to the submitted 2009 through 2011 Annual Reports, the Town has thirty-six (36) inventoried filter system post-construction stormwater management practices, two (2) have been inspected each year and maintained one (1) time each year. According to Town representatives, the filter systems were Fabco filter systems that were removed in 2011. The Town does not routinely inspect and does not have a long-term operation and maintenance plan for post-construction stormwater management practices within the MS4's jurisdiction

At the time of the Audit, the Town of Smithtown did not have written procedures for construction site inspections, enforcement, identifying priority sites for inspection and for routine inspections of post-construction stormwater management practices.

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### Construction Site Enforcement

Chapter 153 of the Town Code includes enforcement authority mechanisms including penalties, stop work orders and imprisonment. At the time of the Audit, the Town had not issued a formal enforcement action to any construction sites for violations of the ordinance. The Town does not have a written SWPPP enforcement action escalation procedure and the Town does not have an enforcement action tracking database. The Town has issued Notices of Inspections that list deficiencies identified at construction sites to the construction sites for correction. According to the submitted 2009 Annual Report, the Town issued five (5) notices of inspections with deficiencies which were categorized on the report as “notices of violations”. According to Town representatives, the deficiencies were resolved prior to formal enforcement action.

### Notice of Termination

According to Town representatives, the Town Engineering Department does final inspections of all construction sites for certificates of occupancies but does not follow up with the applicant regarding completing and filing a Notice of Termination (NOT) to the NYSDEC. According to the NYSDEC construction permittee database, the Brookville Estates, Townhouse Motor Inn, Maple Avenue Improvements and Competition BMW construction sites located within the Town of Smithtown received SPDES permit coverage but have not yet submitted a NOT. According to Town representatives, construction at these four (4) construction sites is complete. The Town does not have a written procedure for final inspections and signing the MS4 acceptance statement on the NOT.

### Training

At the time of the Audit, the Town of Smithtown had not developed and implemented a program that educates construction site owner and/or operators. The Town does not document or track construction operator training and does not have a standard procedure for ensuring all construction site operators have proper training.

### Reported Measurable Goals

Construction Site Stormwater Runoff Control program measurable goal listed in the 2009 and 2010 Annual Reports is:

- Number of SWPPPs reviewed.

Construction Site Stormwater Runoff Control program measurable goal listed in the 2011 Annual Report is:

- Space left blank on Annual Report with no justification included for this change.



## **2. Field Components:**

During the Audit, EPA visited two (2) construction sites in the Town of Smithtown to assess the Town's implementation of its construction stormwater plan: Polish National Church and Prestige Estates construction sites. Findings and observations from each site are summarized below.

### Polish National Church Construction Site

The Polish National Church construction site is located on the east side of Old Commack Road between Pimlico Court and Pinetree Court adjacent to the Holy Cross Cemetery in Kings Park. This construction site project disturbs greater than one (1) acre of soil but did not receive SPDES construction general permit coverage for stormwater discharges from the NYSDEC. Town representatives stated that this was because the site does not discharge stormwater to a surface water body. The Town still conducts periodic inspections while the site is under construction in accordance with Town Code Chapter 153 and Town representatives stated that construction at the site had temporarily ceased and that the disturbed soil at the site had been stabilized. At the time of the Audit, EPA observed exposed soils along Commack Road without soil erosion protection. EPA did not observe catch basins on Commack Road in the vicinity of the site or surface water downhill from this construction site. Catch basins located within the construction site contained filter fabric. According to Town representatives, the catch basins on-site are leaching pools. The northern and eastern edges of the property are adjacent to a forested area and the southern edge of the construction site is adjacent to the Holy Cross Cemetery. At the time of the Audit, the church had been partly constructed and approximately one (1) acre of the property remained disturbed.

### Prestige Estates Construction Site

The Prestige Estates construction site is located on Nadia Court off of Landing Avenue. This construction site project disturbs greater than one (1) acre of soil but did not receive construction SPDES general permit coverage for stormwater discharges from the NYSDEC. Town representatives stated that this was because the site does not discharge stormwater to a surface water body. This construction site does have Wild, Scenic, and Recreational Rivers Systems (WSR) permit coverage through the NYSDEC. This construction site is located within a half a mile from the Nissequogue River, a NYSDEC designated recreational river, and therefore is required to obtain a WSR Permit. At the time of the Audit, the construction site consisted of nine (9) finished single family homes and one (1) lot was currently under construction. Town representatives stated that they visit this construction site on a daily basis. As part of the WSR permit requirements, the construction site conducts weekly inspections and maintained the documentation on-site along with the WSR permit details. According to documentation on-site, the most recent inspection was conducted on May 23, 2012. At the time of the Audit, EPA observed perimeter silt fencing and haybales, a stabilized construction site entrance and an uncovered dumpster on-site containing waste.

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**3. Areas of Concern and Recommendations:**

- a) At the time of the Audit, Town representatives stated that the Polish National Church construction site had been stabilized according to the Town inspector. However, EPA observed exposed soils along Commack Road without soil erosion protection. Town inspectors should be consistent and accurate when making determinations regarding construction sites.
- b) Part VII.A.4.a.xii of the Permit requires permittees to develop, implement and enforce a program that establishes and maintains an inventory of active construction sites. Although the Town actively keeps a record of all known construction sites greater than one (1) acre within the Town, Town representatives were unaware of the NYSDEC's active construction site database available to the public on the internet. The Town should ensure that the Town's construction site inventory and the NYSDEC's database are consistent.
- c) According to the NYSDEC construction permittee database, the NYSDEC received an NOI from the Smithtown Public Library Main Branch construction site on June 5, 2009 to obtain SPDES permit coverage for stormwater discharges from construction sites. The NOI states that the construction site discharges to the Town of Smithtown MS4 but did not obtain MS4 SWPPP acceptance. According to Town representatives, this construction site is not a Town owned site. It is unclear if the Town received and approved of the SWPPP for this construction site. The Town must ensure that construction sites within the Town's jurisdiction comply with SPDES permit requirements including MS4 SWPPP acceptance.
- d) According to the NYSDEC construction permittee database, the Brookvill Estates, Townhouse Motor Inn, Maple Avenue Improvements and Competition BMW construction sites located within the Town of Smithtown received SPDES permit coverage but have not yet submitted a NOT. According to Town representatives, these four (4) construction sites are complete. The Town must ensure that sites comply with permit requirements including NOT submission.

**4. Potential Violations:**

- a) Part VII.A.4.a.vii of the Permit requires all permittees to develop, implement and enforce a program that describes procedures for SWPPP review. The Town of Smithtown did not have written procedures for SWPPP review at the time of the Audit.
- b) Part VII.A.4.a.viii of the Permit requires all permittees to develop, implement and enforce a program that describes procedures for receipt and follow up on complaints or other information submitted by the public regarding construction site stormwater runoff. At the time of the Audit, the Town of Smithtown did not have written procedures for receipt and follow up on complaints by the public regarding construction site stormwater runoff.

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- c) Part VII.A.4.a.ix of the Permit requires all permittees to develop, implement and enforce a program that describes procedures for site inspections and enforcement of erosion and sediment control measures, including steps to identify priority sites for inspection and enforcement and NOT procedures for signing the MS4 acceptance statement on the NOT. At the time of the Audit, the Town of Smithtown did not have written procedures for construction site inspections, enforcement, identifying priority sites for inspection and NOT procedures that include signing the MS4 acceptance statement on the NOT.
- d) Part VII.A.4.a.x of the Permit requires all permittees to develop, implement and enforce a program that educates construction site owner and/or operators about the municipality's construction stormwater requirements, when construction stormwater requirements apply, to whom they apply, the procedures for submission of SWPPPs, construction site inspections, and other procedures associated with control of construction stormwater. The Town of Smithtown did not develop and implement a program that educates construction site owner and/or operators.
- e) Part VII.A.4.a.xi of the Permit requires all permittees to develop, implement and enforce a program that ensures that construction site operators have received erosion and sediment control training before they do work within the MS4's jurisdiction and maintain records of that training. The Town does not document or track construction operator training and does not have a standard procedure for ensuring all construction site operators have proper training.
- f) Part VII.A.5.a.vi of the Permit requires all permittees to develop, implement and enforce a program that maintains an inventory of post-construction stormwater management practices within the MS4's jurisdiction. At a minimum, include practices discharging to the small MS4 that have been installed since March 10, 2003, all practices owned by the small MS4, and those practices found to cause or contribute to water quality standard violations. The Town does not maintain an inventory of post-construction stormwater management practices discharging to the small MS4 that have been installed since March 10, 2003, all practices owned by the small MS4, and those practices found to cause or contribute to water quality standard violations.
- g) Part VII.A.5.a.vii of the Permit requires all permittees to develop, implement and enforce a program that ensures adequate long-term operation and maintenance of management practices identified in Part VII.5.a.vi by trained staff, including inspection to ensure that practices are performing properly. The Town does not routinely inspect and does not have a long-term operation and maintenance plan for post-construction stormwater management practices within the MS4's jurisdiction

## **E. Pollution Prevention / Good Housekeeping for Municipal Operations**

### **1. Findings:**

#### Inventory and Mapping

Town provided EPA with a Town facility list for the purposes of this Audit but does not otherwise maintain a Town facility inventory. The provided list included: the Highway Department-Smithtown Yard; Highway Department-Kings Park Yard; Municipal Services Facility; Parks, Buildings and Grounds Facility; Landfills and the Town Marina. The provided list did not include Town parks, the Town Marina Shop or Town beaches. The Town's SWMP Plan does not include a list or inventory of Town owned or operated facilities. Additionally, Town facilities have not been mapped.

Town representatives could not provide a total number of catch basins within the Town's MS4 but estimated that approximately 40% of the entire Town storm sewer system drainage structures have been mapped based on total drainage area of the Town.

#### Municipal Operations and Facilities Self-Assessments

According to Town representatives, Town facilities are routinely inspected, at a minimum monthly, for hazardous materials storage inspections and are documented on an inspection form although no inspection documentation was provided to EPA at the time of the Audit.

A self-assessment of all municipal operations addressed by the SWMP to determine the sources of pollutants potentially generated by the permittee's operations and facilities; and to identify the municipal operations and facilities that will be addressed by the pollution prevention and good housekeeping program, if it is not done already, has not been performed and documented by the Town at a minimum frequency of once every three years.

#### Vehicles

According to Town representatives, Highway Department and Traffic Department vehicles are stored and maintained at the two (2) Highway Yards and the remainder of the Town vehicles are maintained at the Parks, Buildings and Grounds Facility.

#### Parks

According to the Town website, the Town owns and maintains approximately twenty-two (22) parks and four (4) beaches. According to Town representatives, all Town parks with restrooms are connected to septic systems and not sanitary sewers.

According to Town representatives, the Town does not have a pet waste ordinance or an ordinance prohibiting goose feeding. The Town has installed at Gibb's Pond a "no feeding the waterfowl" sign.

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### Pesticide, Herbicides and Fertilizers

According to Town representatives, pesticides and herbicides are not used on Town properties and the Town has a certified fertilizer applicator for applications of fertilizer on Town properties. According to Town representatives, fertilizers are applied once in the spring and once in the fall to all Town buildings and ball fields. Fertilizers are stored indoors, on pallets and are checked on a monthly basis by the Town. The 2009, 2010 and 2011 Annual Reports submitted to NYSDEC by the Town listed blank the pounds of phosphorus and nitrogen applied in chemical fertilizer for each reporting year. The Town has not tracked and reported the use of fertilizers and the Town's SWMP Plan does not include techniques adopted to reduce the use of fertilizers as well as potential impact to surface water.

### Catch Basin Cleaning

According to Town representatives, orange peel grapples and a Vac Truck are used to clean catch basins. Material removed from the catch basins are brought to the Brookhaven Landfill. According to Town representatives, not all catch basins are cleaned every year, they are cleaned on a rotation and the date, location and basin type are documented on work log tickets and then the data is entered into a computer. According to Town representatives, catch basins in known problem areas are primarily targeted then cleaning is conducted in response to complaints. According to the Town's 2011 submitted Annual Report 350 catch basins were inspected and/or cleaned and the 2010 submitted Annual Report lists 149 catch basins inspected and/or cleaned.

### Street Sweeping

According to the Town's submitted Annual Reports, in 2009 and 2010, 473 miles of streets were swept, in 2011 470 miles of streets were swept and acres of parking lots swept from 2009 to 2011 were left blank. According to Town representatives, all Town maintained streets are swept at least four (4) times a year by the Highway Department. Highway Department street sweepers are stored at the Highway Yards. The Parks Department maintains its own set of street sweepers at the Parks, Buildings and Grounds Facility to sweep beach parking lots at least twice a year and the Town country club parking lot at least three (3) times a year. Material removed from street and parking lot sweeping is brought to the Brookhaven Landfill.

### Deicing Activities and Salt Storage

The Town utilizes a salt and sand mixture composed of 50% salt and 50% sand for deicing activities. The salt and salt/sand mixture is stored in two (2) roofed sheds, one located at each of the two (2) Highway Yards. It is unclear if the Town documents salt use and has a salt application plan.



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Road Maintenance

According to Town representatives, absorbent booms are placed around catch basins during and after road maintenance to prevent pollutants from entering the MS4. Documentation of this Best Management Practice in writing was not provided to EPA at the time of the Audit.

Roadkill is handled by the Highway Department and the Town Animal Shelter. According to Town representatives, roadkill is disposed of at the Huntington Resource Recovery Center.

Spills

According to Town representatives, the Highway Department responds to spills and larger spills are responded to by a contractor. According to Town representatives, larger spills are reported to the NYSDEC and documentation is kept in a memo with all incident files. According to Town representatives, all garbage trucks are required to have spill kits as part of its contract with the Town. The Town does not have written procedures for responding to spills. According to Town representatives, the Town conducts an annual employee training which includes spill response.

Waste Management

Electronic waste and household hazardous waste is collected at the Municipal Services Facility at 85 Old Northport Road in Kings Park. April 28, 2012 and October 6, 2012 were the household hazardous waste collection events at the Municipal Services Facility, according to the Town's Recreation Guide for 2012. Town representatives stated that they document and scale all waste material collected and a vendor disposes of the material.

Household waste is collected curbside by a contracted garbage hauler. Tree trimming and leaf waste is collected curbside by the Town Highway Department to be ground into woodchips and mulch at the Municipal Services Facility. Town representatives estimated that they receive 20,000 tons of leaf waste each year.

Garbage collected within the Town parks are removed by the Parks Department and taken directly to the Huntington Resource Recovery Center. Garbage at Town facilities other than the Town parks are collected by contracted garbage haulers.

Training

According to Town representatives and submitted Annual Reports, the Town does not provide formal in house training and had not developed and implemented an employee pollution prevention and good housekeeping training program. Annual Reports submitted by the Town in 2009, 2010 and 2011 list zero, stormwater management trainings provided to employees.

## **Town of Smithtown MS4 (NYR20A277)**

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### Reported Measurable Goals

Pollution Prevention and Good Housekeeping for Municipal Operations program measurable goal listed in the 2009, 2010 and 2011 Annual Reports is:

- To conduct municipal facility hazardous materials storage inspections on a monthly basis.

### **2. Field Components:**

During the Audit, EPA observed seven (7) Town of Smithtown municipal facilities. Findings and observations at each facility is summarized in the paragraphs below.

#### Town Marina

The Town Marina is located at the end of Long Beach Road on Stony Brook Harbor. Boat fueling is conducted on-site and fuel is stored in two (2) underground storage tanks (4,000 gallon and 6,000 gallon tanks). According to Town representatives, the fuel tanks were installed in 2003 and power washing and engine rinsing are not conducted on-site. Spill kits and absorbent booms are kept on-site in the event of a fuel spill. Public restrooms on-site drain to a cesspool. There are two (2) above ground boater pump-out tanks on-site for public use. The Town Marina also consists of a boat launch and parking lot. According to Town representatives, Town residents pay a fee for use of the marina. According to Town representatives and observations at the time of the Audit, storm drains observed in the Marina parking lot are leaching wells and do not have associated stormwater outfalls. EPA did not observe MS4 outfall pipes along the dock at the Town Marina.

#### Town Marina Shop

The Town Marina Shop is located just west of the Town Marina on Long Beach Road. According to Town representatives, all Town boats are brought to the Town Marina Shop for maintenance and cleaning. The shop contained paints stored on shelves, hydraulic oil stored in secondary containment and a 275 gallon above ground diesel fuel tank with secondary containment and in the roofed shop. Two (2) infiltration storm drains were observed in the driveway of the Shop are connected to an overflow infiltration tank. According to Town representatives, sand and sediment is removed from the overflow infiltration tank approximately twice a year.

#### Cordwood Park

Cordwood Park is located at the end of Cordwood Path on the south end of Stony Brook Harbor. According to Town representatives, this property and the Town Marina are the only Town owned properties located on Stony Brook Harbor and the only source of stormwater from the Town of Smithtown that discharges to Stony Brook Harbor. A “No Dogs Allowed” sign was observed at the park although a resident walking a dog was also observed on the property at the time of the Audit. Storm drains or catch basins were not observed in the parking lot or on Cordwood Path. The park contained two (2) garbage containers, picnic tables, a parking lot and

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minimal trash was observed by EPA. Some soil erosion channels were observed from the parking area leading to Stony Brook Harbor.

Highway Department – Kings Park Yard

The Highway Department, Kings Park Yard, is located on Old Northport Road west of Indian Head Road in Kings Park. The Kings Park Yard consists of approximately four (4) vehicle bays used by Highway Department. Highway Department vehicles are washed and maintained on-site.

Vehicles are fueled at the unroofed vehicle fueling area located south of the garage. According to Town representatives, fuel is stored on-site in one (1) 8,000 gallon diesel and one (1) 8,000 gallon gasoline underground storage tanks. Oil sheens were observed on puddles at the vehicle fueling area at the time of the Audit. Stormwater runoff from the unroofed fueling station enters the catch basins on Old Northport.

Parts are degreased inside the garage into drums for containment. Used oil drums are stored in the garage on secondary containment. Speedy-dri is kept on-site in buckets to be used in the event of a spill.

Salt is stored in a roofed shed north of the garage. The wooden wall at the north end of the salt shed had deteriorated and this portion of the salt shed was covered with a tarp at the time of the Audit. Emulsion cold patch and loose stones are stored exposed to stormwater adjacent to the salt shed. Road pavers are stored under roof in a shed adjacent to the salt pile.

Vehicles are washed using detergent and wax on-site east of the garage in an unroofed area. Vehicle washwater drains east and ponds in an area containing phragmites vegetation on-site and then flows south down the paved driveway and into a catch basin east on Old Northport Road. Town representatives stated that the ponding area that receives vehicle washwater is cleaned out manually on an as-needed basis. At the time of the Audit, oil sheen was observed on liquids flowing from the ponding area, down the paved driveway and into the catch basin on Old Northport Road via the driveway.

The two (2) catch basins on Old Northport Road directly downhill from the Kings Park Yard driveway were connected to one another, did not appear to have discharge pipes to surface water and Town representatives stated that these drains were leaching pools. EPA did not observe catch basins or storm drains within the Kings Park Yard property.

Additional stock piles of metal, asphalt, stone and sediment are stored on the east side of the facility exposed to stormwater uphill from the driveway. At the time of the Audit, oil sheen was observed on liquids flowing from the stockpile area toward the paved driveway.

Municipal Services Facility

The Municipal Services Facility is located at 85 Old Northport Road in Kings Park. Used oil, light bulbs, yard waste and scrap metal are collected and processed at this facility. Also on-site is

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a natural gas fueling station for Town vehicles. The storage bins, drop of locations and the processing area for metals, electronic waste are all under a roof.

Mulching is conducted on-site exposed to stormwater and tracking was observed on the pavement at the time of the Audit.

Used motor oil is collected and stored in two (2) 500 gallon above ground tanks at the facility unroofed and exposed to stormwater. A spill kit was observed at the used motor oil drop off location at the time of the Audit. Two (2) catch basins located downhill from the oil drop off location contained oil absorbent filters at the time of the Audit. According to Town representatives, catch basins at the facility drain to a recharge basin.

Parks, Buildings and Grounds Facility

The Parks, Buildings and Grounds Facility is located at 100 Route 25A in Kings Park. Vehicle maintenance for Town vehicles, with the exception of Highway and Traffic Department vehicles, is conducted indoors at this facility. Vehicles are fueled on-site at the unroofed fueling station. Fuel is stored in a 10,000 gallon gasoline and a 1,000 gallon diesel fuel underground storage tanks. EPA did not observe catch basins in the immediate area or downhill of the fueling station.

At the Facility, there is a 1,000 gallon above ground waste oil tank. All fuel tanks are stored with secondary containment and oil absorbant booms and Speedy-dri were observed on-site at the time of the Audit. Chemicals, including fertilizers, are stored indoors in the roofed garage.

Vehicles are washed on-site at this facility. According to the Parks Department representative on-site, detergents are not used to wash vehicles at this Facility and water used to rinse vehicles drains to a septic tank and then to leaching rings located on-site.

Stock piles of sand, rubber and stone were observed on-site exposed to stormwater at the time of the Audit.

Highway Department – Smithtown Yard

The Highway Department, Smithtown Yard, is located at 758 Route 347 in Smithtown. The Smithtown Yard consists of approximately ten (10) vehicle bays used by the Traffic Department and approximately seven (7) vehicle bays and a large garage used by the Highway Department. Highway Department and Traffic Department vehicles are washed and maintained on-site.

Vehicle maintenance, oil changes and parts cleaning are conducted inside the roofed garage and Speedy-Dri and rags were observed being used on the floor of the garage for spill cleanup. At least four (4) floor drains were observed inside the garage where vehicle maintenance occurs. These floor drains are connected and drain north through a series of manholes and stormwater catch basins located outside the garage and in the parking areas.

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Vehicles are fueled at the unroofed fueling station located northwest of the garage. According to Town representatives, fuel is stored in a 5,000 gallon and a 10,000 gallon underground storage tanks. Stormwater runoff from the unroofed fueling station enters a catch basin on-site.

The vehicle wash area is located outside and northwest of the garage. A hose and detergent are used to wash Town owned vehicles at this location. Vehicle wash water drains to a catch basin located in the wash area. The wash area catch basin is connected to and located downstream from the garage floor drains.

The Smithtown Yard also had material stock piles in the northern portion of the facility. A salt mixture consisting of 50% salt and 50% sand is stored in a shed on-site. Metal to be recycled, mulch, and yard debris are kept in stock piles exposed to stormwater north of the salt shed. A stormwater catch basin was observed immediately downhill from the metal recycling stock pile and a car battery adjacent to the metal recycling piles exposed to stormwater was observed. According to Town representatives, the car battery was brought into the yard that day with the metal recycling and will be put indoors.

Approximately thirty (30) dump trucks were parked in a gravel area west of the vehicle wash area at the time of the Audit.

At the time of the Audit, oil sheens were observed on liquids located within the catch basins on-site downstream from the maintenance garage. At the time of the Audit, Town representatives stated that they did not know where stormwater catch basins at the Smithtown Yard ultimately discharged.

### **3. Addendum**

Subsequent to the Audit, on June 15, 2012, EPA issued the Town of Smithtown and Request for Information (RFI) requesting storm sewer drainage plans or a storm sewer system evaluation of the Town's Smithtown Highway Yard located at 758 Route 347. On September 18, 2012, EPA received the Town of Smithtown's response to the RFI. According to the Town's submission, the stormwater catch basin observed immediately downhill from the metal recycling stock pile and a car battery discharges stormwater into the southeast corner of the recharge basin located north of the Yard via a 15" corrugated plastic pipe. Additionally, the five (5) floor drains located within the garage are connected to the catch basins located immediately downhill from the fueling area and vehicle washwater location. This drainage system discharges stormwater, washwater and garage liquids to the southwest corner of the recharge basin located north of the Yard via a 24" corrugated metal pipe. For detailed drainage maps of the Smithtown Yard see Attachment F.

### **4. Areas of Concern and Recommendations:**

- a) The Town does not have a formal written plan or protocol for handling spills within the Town. The Town should develop a written plan for handling a variety of spills from small and easily containable spills, to spills of a larger nature where emergency response is called in. The Town's spill control plan should also include and specify varying protocols



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for the type of spilled liquids, such as flammable, hazardous, etc. A spill control plan can be considered a management practice and procedure that reduces or prevents the discharge of potential pollutants, as described in and required by Part VII.A.6.a.ii of the Permit.

- b) From 2009 through 2011, Annual Reports were blank for acres of parking lots swept even though the Parks Department sweeps Town parking lots. The Town should document and report in Annual Reports acres of parking lots swept.
- c) It is unclear if the Town documents salt use and has a salt application plan. The Town should document and track salt use within the Town.
- d) Town representatives could not provide a total number of catch basins within the Town's MS4. The Town should have a catch basin inventory.
- e) According to Town representatives, the Town does not have a pet waste ordinance or an ordinance prohibiting goose feeding. The Town should consider developing and enforcing pet waste and goose feeding ordinances as a way to target POCs.
- f) According to Town representatives, absorbent booms are placed around catch basins during and after road maintenance to prevent pollutants from entering the MS4. Documentation of this Best Management Practice in writing was not provided to EPA at the time of the Audit.
- g) According to the on-site Parks Department representative, water used to rinse vehicles drains to a septic tank and then to leaching rings on-site. It is unclear if and how this septic tank is maintained by the Town and if an oil and water separator is present.

**5. Potential Violations:**

- a) Part VII.A.6.a.i of the Permit requires all permittees to develop and implement a pollution prevention/good housekeeping program for municipal operations and facilities that addresses municipal operations and facilities that contribute or potentially contribute POCs to the small MS4 system. EPA inspectors observed inadequate pollution prevention/good housekeeping at the following locations that contribute or potentially contribute POCs to the small MS4 system:
  - i. At the Highway Department – Smithtown Yard:
    - a. At least four (4) floor drains located in the vehicle maintenance garage, where vehicle maintenance, oil changes and parts cleaning occurs, discharge into the storm sewer located on-site and oil sheens were observed on liquids in catch basins;
    - b. Vehicle washwater containing detergent enters the storm sewer system on-site;

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- c. A car battery exposed to stormwater located at the metal recycling stock pile immediately uphill from a stormwater catch basin; and
    - d. Stormwater runoff from the unroofed fueling station enters the storm sewer system on-site.
  - ii. At the Highway Department – Kings Park Yard:
    - a. Vehicles are washed using detergent and wax on-site east of the garage in an unroofed area. Vehicle washwater drains east and ponds in an area containing phragmites vegetation on-site and then flows south down the paved driveway and east into a stormwater catch basin on Old Northport Road;
    - b. At the time of the Audit, oil sheen was observed on liquids flowing from the ponding area, down the paved driveway and into the catch basin on Old Northport Road;
    - c. Additional stock piles of metal, asphalt, stone and sediment are stored on the east side of the facility exposed to stormwater uphill from the driveway. At the time of the Audit, oil sheen was observed on liquids flowing from the stockpile area toward the paved driveway; and
    - d. Stormwater runoff from the unroofed fueling station enters the catch basins on Old Northport Road and at the time of the Audit, oil sheens were observed on pooling liquids located in the fueling area.
- b) Part VII.A.6.a.ii of the Permit requires that all permittees must: at a minimum frequency of once every three years, perform a self-assessment of all municipal operations addressed by the SWMP to: determine the sources of pollutants potentially generated by the permittee's operations and facilities; and identify the municipal operations and facilities that will be addressed by the pollution prevention and good housekeeping program, if it is not done already. A self-assessment of all municipal operations addressed by the SWMP to determine the sources of pollutants potentially generated by the permittee's operations and facilities; and to identify the municipal operations and facilities that will be addressed by the pollution prevention and good housekeeping program, if it is not done already, has not been performed and documented by the Town at a minimum frequency of once every three years.
- c) Part VII.A.6.a.vi of the Permit requires that all permittees develop and implement a pollution prevention / good housekeeping program for municipal operations and facilities that includes an employee pollution prevention and good housekeeping training program and ensures that staff receive and utilize training. According to Town representatives and submitted Annual Reports, the Town does not provide formal in house training and had not developed and implemented an employee pollution prevention and good housekeeping training program. Annual Reports submitted by the Town in 2009, 2010 and 2011 list zero stormwater management trainings provided to employees.
- d) Part VII.A.6.d of the Permit requires that all permittees must adopt techniques to reduce the use of fertilizers, pesticides, and herbicides, as well as potential impact to surface water. According to Town representatives, fertilizers are applied once in the spring and

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once in the fall to all Town buildings and ball fields. The 2009, 2010 and 2011 Annual Reports submitted to NYSDEC by the Town listed blank the pounds of phosphorus and nitrogen applied in chemical fertilizer for each reporting year. The Town has not tracked and reported the use of fertilizers and the Town's SWMP Plan does not include techniques adopted to reduce the use of fertilizers as well as potential impact to surface water.

## **F. Annual Report Review**

### **1. Findings:**

Ms. Stephanie Hurd, MS4 Program Coordinator, is responsible for completing and submitting the Town's Annual Reports with the exception of the 2010 Annual Report which was submitted by Mr. Matt Lankowicz when Ms. Hurd was on leave. Ms. Hurd stated that each year, information for the Annual Reports are solicited from the Highway, Parks and Sanitation Departments through internal memorandums. Ms. Hurd then compiles the information and enters it into the Annual Report. The Town Board then holds a public hearing two (2) weeks prior to the Annual Report submission deadline and if comments are received from the public they are included in the final Annual Report prior to submission to the NYSDEC. According to Town representatives, the public is notified of the Town Board meeting through a legal notice published in the newspaper.

Measurable goals for the MCMs listed in the Annual Reports, as indicated in Parts B, C, D and E of this Audit report are not included in the SWMP Plan.

The Audit team also reviewed the dates that the last five (5) Annual Reports were received by NYSDEC. Four of the five required Annual Reports were received by NYSDEC late. According to the Permit, the annual deadline for submittal of Annual Reports is by June 1 of the reporting year. Below is a summary of when the last five (5) Annual Reports were received by NYSDEC:

**Table 2**

Annual Report Year	Period Covered	Date Report is Due	Date Report Received by NYSDEC	Days Late
2008	March 10, 2007 to March 9, 2008	June 1, 2008	June 2, 2008	1
2009	March 10, 2008 to March 9, 2009	June 1, 2009	June 1, 2009	Not Late
2010	March 10, 2009 to March 9, 2010	June 1, 2010	September 2, 2010	93
2011	March 10, 2010 to March 9, 2011	June 1, 2011	September 19, 2011	110
2012	March 10, 2011 to March 9, 2012	June 1, 2012	July 6, 2012	35

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**2. Potential Violations:**

- a) Part V.C.1 of the Permit requires the Annual Report to be received by NYSDEC no later than June 1 of each reporting year. Four of the past five Annual Reports were not received by NYSDEC by the June 1 of the reporting year deadline (2008, 2010, 2011 and 2012 Annual Reports) as detailed in Table 2.
- b) Part V.C.3 of the Permit requires all permittees to include any change in identified BMPs or measurable goals and justification for those changes in the Annual Report. The Town did not include justification in the 2011 Annual Report for omitting the Construction Site Stormwater Runoff Control program measurable goal in the 2011 Annual Report. The Construction Site Stormwater Runoff Control program measurable goal listed in the 2009 and 2010 Annual Reports included “number of SWPPPs reviewed” while the space was left blank on the 2011 Annual Report with no justification.
- c) Part IV.D of the Permit requires permittees to fully implement their SWMP. Part X defines SWMP as needing to include measurable goals for each of the BMPs and Part X includes measurable goals as documentation required to be included in the SWMP Plan definition. Measurable goals for the MCMs listed in the Annual Reports, as indicated in Parts B, C, D and E of this Audit report are not included in the Town’s SWMP Plan.

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**Town of Smithtown MS4 (NYR20A277)**  
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**ATTACHMENT A**

**Town of Smithtown MS4 (NYR20A277)**  
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**AGENDA FOR MS4 AUDIT  
TOWN OF SMITHTOWN MS4  
May 22, 2012 – May 24, 2012**

<b>Tuesday, May 22, 2012</b>	
<b>10:00 – 10:30 am</b>	<b>Opening/Kick-off Conference</b>
Introductions, overview of audit process, goals and benefits, review schedule <i>Location: 99 West Main Street</i>	
<b>10:30 am – 11:30 pm</b>	<b>Program Management, Agreements with Other Municipalities &amp; SWMP overview</b>
Review program management and agreements with other municipalities and entities <i>Location: 99 West Main Street</i>	
<b>11:30 am – 12:00 pm</b>	<b>Public Education and Outreach Program</b>
Interview of appropriate staff and review records <i>Location: 99 West Main Street</i>	
<b>12:00 – 1:15 pm</b>	<b>LUNCH</b>
<b>1:15 – 3:00 pm</b>	<b>Illicit Connection &amp; Elimination and MS4 Outfalls</b>
Interview of appropriate staff and review records including review of ordinances, mapping, inspections and related enforcement <i>Location: 99 West Main Street</i>	
<b>3:00 – 4:30 pm</b>	<b>Construction and Post-Construction Site Stormwater Runoff Control</b>
Interview of appropriate staff and review records, including review of SOPs <i>Location: 99 West Main Street</i>	
<b>Wednesday, May 23, 2012</b>	
<b>8:30 – 10:00 am</b>	<b>Pollution Prevention/Good Housekeeping</b>
Interview of appropriate staff and review records, including review of SOPs <i>Location: TBD</i>	
<b>10:00 am – 12:00 pm</b>	<b>Field Component for MS4 Maintenance Activities, MS4 Outfalls and Construction Stormwater Management</b>
Inspection of Municipal Highway Garages, Municipal Yards, Parks, Salt/De-icing Storage, etc. observing facility & maintenance work, Observe MS4 staff as they conduct inspections at construction sites (mix of both public and private, small and large sites, residential and commercial, etc) and MS4 Outfall inspections <i>Location: TBD</i> <i>**please note that we can intersperse MS4 maintenance, MS4 outfall and construction activities throughout the day depending on how spread out the sites are**</i>	
<b>12:00 – 1:30 pm</b>	<b>LUNCH</b>
<b>1:30 – 4:30 pm</b>	<b>Field Component – cont'd</b>
<i>Location: TBD</i>	
<b>Thursday, May 24, 2012</b>	
<b>9:00 am – 12:00 pm</b>	<b>Complete field work and outstanding interviews and review additional records (if any)</b>
Interview of appropriate staff and review records <i>Location: TBD</i>	
<b>12:00 – 1:30 pm</b>	<b>LUNCH &amp; Internal Discussion</b>
<b>1:30 – 2:30 pm</b>	<b>Closing Conference (tentative)</b>
<i>Location: 124 West Main Street</i>	

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**ATTACHMENT B**

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**Prior to conducting the audit, the Town of Smithtown submitted the following materials to EPA Region 2:**

1. List of construction sites over one (1) acre currently under construction dated May 2012;
2. NOI dated 2/25/03;
3. Acknowledgement Letter from NYSDEC dated 4/2/03;
4. SWMP Implementation Schedule;
5. List of Town Facilities;
6. 2011 Shoreline Survey;
7. Website link to Town Code: Chapter 153 Stormwater Management and Erosion and Sediment Control, Chapter 315 – Water Pollution, and Article III. Integrated Municipal Review of Action Located Within Coastal Area; and
8. Employee construction site management training certifications dated 3/8/11.

**Prior to conducting the audit, the NYSDEC provided the following materials to EPA Region 2:**

1. 2007 Annual Report submitted by the Town of Smithtown;
2. 2008 Annual Report submitted by the Town of Smithtown;
3. 2009 Annual Report submitted by the Town of Smithtown;
4. 2010 Annual Report submitted by the Town of Smithtown; and
5. 2011 Annual Report submitted by the Town of Smithtown.

**At the time of the audit, the Town of Smithtown provided EPA Region 2 with copies of the following materials:**

1. “Keep Our Water Clean, Use Pumpouts” pamphlet;
2. Service station oil recycling program participation record dated 2011;
3. SWPPP acceptance letter from Town to Lowe’s dated 5/1/12;
4. 2012 refuse/recycling calendar;
5. 2012 Smithtown recreation guide; and
6. SWMP Plan dated March 2003.

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**ATTACHMENT C**

**Town of Smithtown MS4 (NYR20A277)**  
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**Town of Smithtown MS4 (NYR20A277)**  
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**ATTACHMENT D**

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Shoreline Survey  
(Summer, 2011)

Smithtown Area (Landing Avenue)

- 1) House (248 Landing Ave.) South West of Landing Avenue Bridge; approximately 30 yards from riverbank.  
Location-  
Latitude: N40.8632  
Longitude: W73.2003  
Could not find pipe. Area is clean. Minimal possibility of runoff.
- 2) Landing Avenue Bridge.  
Latitude: N40.8634  
Longitude: W73.2008  
There is a small possibility of road runoff from bridge. Runoff reduced by surface grate.  
Parking Lot. Canoe Launch Area.  
Location-  
Latitude: N40.8638  
Longitude: W73.2005  
The pipe in the bulkhead is clear.
- 3) Private Road North East of Landing Avenue. Bridge and house (272 Landing Ave.).  
Bridge Location:  
Latitude: N40.8650  
Longitude: W73.2005  
There is highly probable road runoff from bridge.  
Further down the private road, there is runoff by the stairs.  
Location-  
Latitude: N40.8661  
Longitude: W73.1996
- 4) White house (271 Landing Ave.) – approximately 40 yards North East from river bank; 40° slope dike from pond.  
Location of house-  
Latitude: N40.8685  
Longitude: W73.1970  
In the yard, there is a man-made pond that flows into the river.  
Location of pond-  
Latitude: N40.8685  
Longitude: W73.1962



- 5) Thatch Pond Road parking lot (dead end area at the bottom of the hill)  
Location-  
Latitude: N40.8663  
Longitude: W73.1964  
Drain on the opposite side of the road. Clear water lightly flowing to river from pipe located underneath road. This is most likely due from road water runoff.
- 6) 146 Oakside Drive. Dock in backyard  
Location of Dock-  
Latitude: N40.8862  
Longitude: W73.1977  
Area is very clean. There is possible runoff from backyard lawn.
- 7) Smithtown Landing Country Club  
Location of shoreline from Country Club parking lot-  
Latitude: N40.8885  
Longitude: W73.2048  
Due to brush, couldn't get to location. Could not find pipes.

#### Central Smithtown

- 8) Miller's Pond  
Location-On Lawrence Ave, right before Oak Ave.  
Latitude: N40.8479  
Longitude: W73.1945  
Pipe was eroded; water seemed to be coming out clear.

#### Nissequogue Area

- 9) River Rd., approximately 150 feet N/o Moriches Rd.  
Latitude: N40.9003  
Longitude: W73.2025  
Two storm drains on River Rd. may be connected to culvert pipes emptying into a stream near the footbridge east of the Nissequogue River. Culvert pipes were wet but not flowing.
- 10) Boney Lane. East of Short Beach  
Location-  
Latitude: N40.9038  
Longitude: W73.2184  
Possible road runoff. Broken pieces of cement in and around water, plenty of wildlife. Could not find pipes mentioned in 1988 survey.
- 11) Stony Brook Harbor (At Long Beach)

Location (By mooring area)-

Latitude: N40.9184

Longitude: W73.1769

Location (By mudhole)-

Latitude: N40.9198

Longitude: W73.1717

Location (By marina)-

Latitude: N40.9216

Longitude: W73.1665

Entire area was clean. No Pipes found in mooring area possibly due to new dock construction. No pipes found near mudhole and/or marina, a few pieces of garbage found by mudhole.

12) Cordwood Beach

Location-

Latitude: N40.8947

Longitude: W73.1731

Runoff from Cordwood Path travels onto the beach. There was too much debris to get to location, could not find pipe.

Kings Park Area

13) Riveria Road and Lakeview Drive.

Location-

Latitude: N40.8546

Longitude: W73.1986

Area is mostly clean except for some garbage. Could not find pipes as mentioned in previous survey.

14) San Remo Boat Ramp

Location-

Latitude: N40.8891

Longitude: W73.2302

Area was clean. Some garbage, water on shore stationary.

15) Nissequogue Yacht Club Marina

Location-

Latitude: N40.8995

Longitude: W73.2282

Area was clean. There is possible road water runoff.

16) Kings Park Sewage Treatment Plant

Location-

Latitude: N40.8957

Longitude: W73.2289

Area was clean. Pipes found with no liquid discharge.

17) Boat Ramp at Old Dock Road

Location-

Latitude: N40.9039

Longitude: W73.2329

Area was clean. No pipes found. Possible road runoff from Old Dock Road.

18) Sunken Meadow Creek in Sunken Meadow State Park

Location-

Latitude: N40.9077

Longitude: W73.2450

Two pipes flowing from Sunken Meadow Creek into the Nissequogue. Water was clean, but pipes were eroded.

19) Callahans Beach

Location-

Latitude: N40.9193

Longitude: W73.2814

There is a pipe from the leaching pool located on beach. No apparent discharge from pipe.

Ronkonkoma Area

20) Lake Ronkonkoma

By the old Bavarian Inn- broken down posts and branches in water. Pipes not found.

Location of PVC pipe and gutter-

Latitude: N40.8326

Longitude: W73.1258

Location of metal pipe- on the beach to the right of the playground

Latitude: N40.8300

Longitude: W73.1285

No apparent discharge from metal pipe.

21) The Great Bog

Kappler Ct. located on Eastern bank of bog-

Latitude: N40.8342

Longitude: W73.1242

A lot of foliage, and what looked like a bathtub and old bed frame in water.

Edward Ct. (Side yard of 15, Edward Ct.) located on Eastern bank of bog -

Latitude: N40.8348  
Longitude: W73.1242  
Area was clean.  
Charles Ct. located on Eastern bank of bog -  
Latitude: N40.8358  
Longitude: W73.1232  
Possible Runoff. Otherwise clean.  
Mills Path located on Eastern bank of bog -  
Latitude: N40.8362  
Longitude: W73.1232  
Area clean, except for foliage  
Bowers Ct. located on Eastern bank of bog -  
Latitude: N40.8382  
Longitude: W73.1248  
Could not get through foliage to Bog  
Steuben Boulevard located on Western bank of bog -  
Latitude: N40.8328  
Longitude: W73.1296  
Foliage, some garbage (bottles, rags, plastic bags)

#### Nesconset Area

22) Spectacle Pond  
Location-On Margaret Rd  
Latitude: N40.8355  
Longitude: W73.1345  
There is definite road water runoff. Water was clear. There was some trash on banks.

23) Gibbs Pond  
Location-  
Latitude: N40.8445  
Longitude: W73.1397  
Found only one pipe in the bulkhead, pipe was clean.

#### Fort Salonga Area

24) Fresh Pond  
Location-  
Latitude: N40.9234  
Longitude: W73.2953  
Could not find pipes as mentioned in 1988 survey, too much foliage to get to location. At location N40.9215 and W73.2982 there is definite road runoff.

### Caleb Smith State Park

- 25) Willow Pond  
Location-  
Latitude: N40.8528  
Longitude: W 73.2270  
This is the first pond on the west side of the main road. Pond is clean; water does not seem to be flowing from pipe.
- 26) Webster Pond  
Location- Opposite side of Jericho Tpke  
Latitude: N40.8487  
Longitude: W73.2278  
This pond flows into Willow Pond; the water is clean. There is a large pipe flowing under road into pond on other side. Clean except for some foam.
- 27) Vail Pond  
Location-  
Latitude: N40.8485  
Longitude: W73.2269  
There are two long narrow pipes flowing clear water to northern part of pond.  
Latitude: N40.8483  
Longitude: 73.2260  
There is a larger pipe flowing under the road into pond, filtering water with metal screen. Water flows into another smaller pond, water is coming out clear.
- 28) Given County Park  
Location-off Rt. 25  
Latitude: N40.8577  
Longitude: W73.2109  
The pond is located south of Route 25 (Jericho). Water flow was clear. There is possible road runoff from Jericho Turnpike.  
Latitude: N 40.8575  
Longitude: W 73.2103  
There is a man made dam. Excess water flows into drain.

### Blydenburgh Park

- 29) New Mill Pond  
Location-  
Latitude: N40.8429  
Longitude: W73.2276  
This pond is on the west side of the main road of Blydenburgh Park. Pond is mostly clean. Water is filtered into a stream under road.

30) Town House Motel on Route 25

Location-

Latitude: N40.8459

Longitude: W73.2370

There is a possibility of rainwater runoff mostly coming from Route 25. Water was clear.\*

\* Large pipe carrying stormwater from Route 25 into wetland area was not located during this inspection.

**Town of Smithtown MS4 (NYR20A277)**  
**May 22, 2012 – May 24, 2012**

**ATTACHMENT E**



**Town of Smithtown MS4 (NYR20A277)**  
**May 22, 2012 – May 24, 2012**

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1. MEASUREMENTS ARE IN ACCORDANCE WITH U.S. STANDARDS
2. THE HORIZONTAL DATUM IS IN THE NEW YORK STATE PLANE COORDINATE SYSTEM NAD83 UTM ZONE 18T. THE VERTICAL DATUM IS THE MEAN SEA LEVEL
3. UNAUTHORIZED ALTERATION OF ADDITION TO A SURVEY MAY RENDER IT UNRECORDED
4. THE SURVEY IS A PART OF SECTION 708, SUBSECTION 1 OF THE NEW YORK STATE EDUCATION LAW
5. ONLY COPIES FROM THE ORIGINAL OF THE SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S "EMBOSSER" OR "WINDY SEAL" SHALL BE CONSIDERED TO BE VALID TRUE COPIES
6. CERTIFICATIONS INCLUDED HEREIN STATE THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE STATE OF NEW YORK
7. THIS CERTIFICATION SHALL RUN ONLY TO THE PERSON FOR WHOM THE SURVEY IS PREPARED AND ON ITS BEHALF TO THE TITLE COMPANY
8. THE SURVEY IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM
9. THE RIGHTS OF THE LENDING INSTITUTION, CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS
10. RIGHTS OF WAY NOT SHOWN ARE NOT CERTIFIED

DISTRICT 0000	001 000	DISTRICT 0000	001 000
SECTION 100.00	001 000	SECTION 100.00	001 000
BLOCK 01.00	001 000	BLOCK 01.00	001 000
LOTS	001 000	LOTS	001 000
DISTRICT 0000	001 000	DISTRICT 0000	001 000
SECTION 100.00	001 000	SECTION 100.00	001 000
BLOCK 01.00	001 000	BLOCK 01.00	001 000
LOTS	001 000	LOTS	001 000

[illegible]

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DATE	BY	DESCRIPTION	APPROV. BY
<b>REVISIONS</b>			
		<b>Smithtown Highway Yard</b> Suffolk County, New York	
		<b>Nesconset - Port Jefferson Hwy</b> <b>Smithtown, New York</b>	
		<b>Topographic Survey - Area 1</b>	
<b>L. K. McLEAN ASSOCIATES, P.C.</b> CONSULTING ENGINEERS & LAND SURVEYORS 437 5D, COUNTRY ROAD, BROOKHAVEN, NEW YORK 11793			
		Designed by: TJS      Scale: 1" = 50' Drawn by: TJS      Date: Sept. 11, 2002 Title:	Sheet No.: 1
		Approved by: JRE	File No. 12006.000 2

I hereby certify that this map was made from an actual survey  
completed by me on 07/27/2012 and located on 03/06/2012

*[Signature]*  
DANIEL P. JEDLIKA, P.L.S.  
NYS PLS No. 50058

GRAPHIC SCALE





MAP OF  
DRAINAGE INVENTORY  
AT THE  
TOWN OF SMITHTOWN HIGHWAY YARD  
LOCATED AT  
SMITHTOWN  
TOWN OF SMITHTOWN  
SUFFOLK COUNTY, NEW YORK  
SEPTEMBER 11, 2012

**SALE**  
10/10/10

7. MEASUREMENTS ARE IN ACCORDANCE WITH U.S. STANDARDS.
  8. THE HORIZONTAL DATUM IS THE NEW YORK STATE PLANE COORDINATE SYSTEM AND IS USED TO DEFINE THE VERTICAL DATUM BY FIRST ORDERING
- UNAUTHORIZED ALTERATION OF ADDITION TO A SURVEY MAY BEARING A LICENSED LAND SURVEYOR'S SEAL OR A VIOLATION OF SECTION TWO, SUBSECTION D OF THE NEW YORK STATE EDUCATION LAW.
- ONE COPIES FROM THE ORIGINAL OF THIS SURVEY MANIFEST MUST BE DEPOSITED IN THE OFFICE OF THE CLERK OF THE COUNTY OF ALBANY SHALL BE CONSIDERED TO BE VALID TRUE COPIES.
9. CERTIFICATIONS INDICATED HEREIN ASSURE THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING REGULATION OF PROFESSIONAL LAND SURVEYORS. SAID CERTIFICATIONS SHALL RUN ONLY TO THE PERSON(S) FOR WHOM THE SURVEY WAS PERFORMED. ANY OTHER USE OF THESE CERTIFICATIONS WITHOUT THE WRITTEN PERMISSION OF THE SURVEYOR IS NOT TOLERABLE.
  10. ADDITIONAL INSTRUMENTS ARE NOT NECESSARY TO COMPLETE THIS SURVEY.
- PRINTED ON MAY 2007. MAY HAVE BEEN NOT REPRODUCED.


CHRYSLER CREDIT CORPORATION

TOTAL OF EARTHQUAKES	
DISTRICT 0800	
SECTION 107.00	
BLOCK 01.00	
LOT 001.000	
DISTRICT 0800	
SECTION 108.00	
BLOCK 01.00	
LOTS 018.000 & 019.000	
DISTRICT 0800	
SECTION 109.00	
BLOCK 02.00	
LOTS 019.000	

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- [illegible]

SEP 13 2002

DATE	BY	REVISIONS	APPROV. BY												
		<p><b>Smithtown Highway Yard</b>          Suffolk County, New York</p> <p><b>Nesconset - Port Jefferson Hwy</b>          Smithtown, New York</p>													
<p><b>Topographic Survey - Area 2</b></p> <p><b>L. K. McLEAN ASSOCIATES, P.C.</b>          CONSULTING ENGINEERS &amp; LAND SURVEYORS          437 30. COUNTRY ROAD, BROOKHAVEN, NEW YORK</p>															
		<table border="1"> <tr> <td>Drawn By:</td> <td>TLS</td> <td>Scale:</td> <td>1" = 30'</td> </tr> <tr> <td>Inspected By:</td> <td></td> <td>Date:</td> <td>Sept. 11, 2012</td> </tr> <tr> <td>Reviewed By:</td> <td></td> <td>Sheet No.</td> <td>1 of 2</td> </tr> </table>		Drawn By:	TLS	Scale:	1" = 30'	Inspected By:		Date:	Sept. 11, 2012	Reviewed By:		Sheet No.	1 of 2
Drawn By:	TLS	Scale:	1" = 30'												
Inspected By:		Date:	Sept. 11, 2012												
Reviewed By:		Sheet No.	1 of 2												

*[Signature]*  
DANIEL P. WELUCKA, P.L.S.




GRAPHIC SCALE



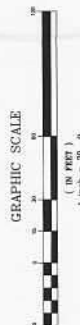
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1. MEASUREMENTS ARE IN ACCORDANCE WITH U.S. STANDARDS.
2. THE HORIZONTAL DATUM IS IN THE NEW YORK STATE PLANE COORDINATE SYSTEM AND 68-11 C.
3. THE TERRACE OF THE PROPERTY IS NOT A BOUNDARY. IT IS A REFERENCE TO THE LAND SURVEYORS' SUEWY. IT IS A VIOLATION OF SECTION 206, SUBDIVISION 1, OF THE NEW YORK STATE EASELATION LAW.
4. ONLY 7 COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYORS' EMBOSSED "OR" "INDEED" SHALL BE CONSIDERED TO BE THE ORIGINAL OF THIS SURVEY. THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE SURVEYING PRACTICE ACT AND SURVEYORS ASSOCIATION OF PROFESSIONAL LAND SURVEYORS.
5. THE SURVEY IS PREPARED AND ON BEHALF OF THE TITLE COMPANY, A PROFESSIONAL LAND SURVEYOR, AND LEADING SURVEYORS ASSOCIATION. THE SURVEY IS NOT TRANSFERABLE TO ADDITIONAL INSTANTIES OR SUBSEQUENT OWNERS.
6. RIGHTS OF WAY NOT SHOWN ARE NOT CERTIFIED.

DATE	BY	DESCRIPTION	APPROV. BY
<b>REVISIONS</b>			
			
<b>Smithtown Highway Yard</b> Suffolk County, New York			
<b>Nesconset – Port Jefferson Hwy</b> Smithtown, New York			
<b>Topographic Survey – Area 2</b> <b>L. K. McLEAN ASSOCIATES, P.C.</b> CONSULTING ENGINEERS & LAND SURVEYORS 437 80, COUNTRY ROAD, BROOKHAVEN, NEW YORK			
Designed By:		T12	Scale: 1" = 30'
Drawn By:		T12	Date: Sept. 11, 2012
			Sheet No. 2 of 2

I hereby certify that this map was made from an actual survey completed by me on 07/27/2012 and updated on 08/06/2012.

*[Signature]*  
 DANIEL P. JEDLIKA, PLS



**Town of Smithtown MS4 (NYR20A277)**  
**May 22, 2012 – May 24, 2012**

**ATTACHMENT F**

**Town of Smithtown MS4 (NYR20A277)**  
**May 22, 2012 – May 24, 2012**

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E4.8 and Unmapped Outfall #1	40.898114, -73.218952 and 40.89813, -73.219135	Nissequogue River	Two metal corrugated outfall pipes from two catch basins and two leaching rings, one broken and both are covered in debris and vegetation (see photographs P5230898.JPG, P5230899.JPG and P5230901.JPG)	5/23/12
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P5230898.JPG



P5230899.JPG



P5230901.JPG





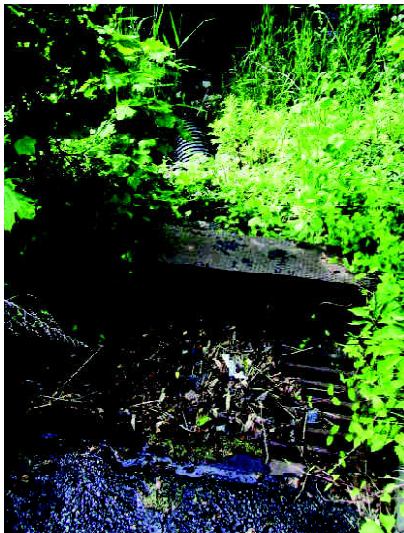
Unmapped Outfall #2	South of D4.15, culvert pipe from marsh area to Harrison Pond, 40.892691, -73.227876	Harrison Pond	~24" corrugated metal pipe, flowing clear at the outfall, rusted out bottom of pipe (see photograph P5230885.JPG)	5/23/12
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P5230885.JPG



Unmapped Outfall #3	North side of Saint Johnland Road at Nissequogue River, 40.893905, -73.227848	Nissequogue River	~18" corrugated plastic pipe, flowing clear at the outfall (see photographs P5230887.JPG and P5230888.JPG)	5/23/12
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P5230887.JPG



P5230888.JPG



Unmapped Outfall #4	At Riviera Drive and Hemlock Drive, 40.895582, -73.224502	Nissequogue River	~36" metal corrugated pipe, flowing clear at the outfall, pipe 1/3 full with sediment (see photographs P5230892.JPG and P5230894.JPG)	5/23/12
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P5230892.JPG



P5230894.JPG



Unmapped Outfall #5	Southwest of Riviera Drive and Hemlock Drive, 40.895555, -73.224556	Nissequogue River	~12" metal corrugated pipe, flowing clear at the outfall (see photograph P5230893.JPG)	5/23/12
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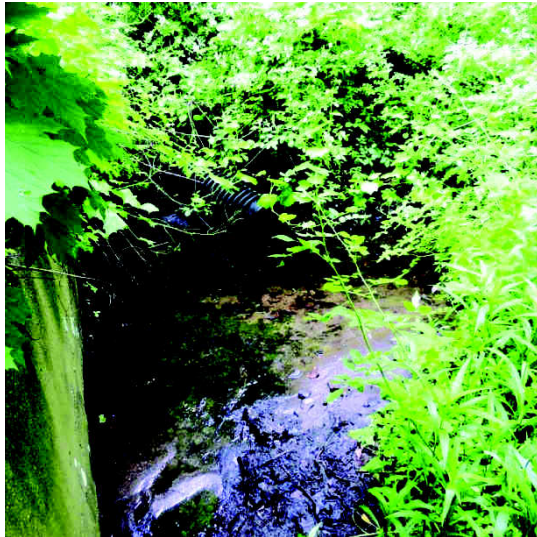
P5230893.JPG





Unmapped Outfall #6	South side of Brook Lane east of Nissequogue River Northeast Branch crossing, 40.840364, -73.202049	Nissequogue River Northeast Branch	~18" corrugated plastic pipe, no flow at the outfall (see photographs DSCN0261.JPG and DSCN0262.JPG)	5/24/12
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DSCN0261.JPG



DSCN0262.JPG



Unmapped Outfall #7	North side of Brook Lane east Nissequogue River Northeast Branch crossing, 40.840506, -73.202006	Nissequogue River Northeast Branch	~24" corrugated plastic pipe, no flow at the outfall (see photograph DSCN0263.JPG)	5/24/12
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DSCN0263.JPG

